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VEGETABLES, INC.; AND DOLE FOOD
COMPANY, INC.

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

MARIA BARBOZA, an individual, on behalf
of herself and all members of the putative
class,

Plaintiff,

v.

BUD ANTLE, INC., a California Corporation;
and DOES 1 through 100, inclusive,

Defendants.

Case No. 20CV001666

[Deemed Complex and Assigned for All
Purposes to the Honorable Thomas W. Wills,
Dept. 15]

CLASS ACTION

SETTLEMENT AGREEMENT

Complaint Filed: June 16, 2020
Trial Date: None Set

1 This Settlement Agreement is made and entered into by and between Plaintiff Maria
2 Barboza (“Plaintiff”), on behalf of herself and on behalf of similarly situated putative class
3 members, the State of California, and the aggrieved employees, and Defendants Bud Antle, Inc.,
4 Dole Fresh Vegetables, Inc. and Dole Food Company, Inc. (collectively “Defendants”). Plaintiff
5 and Defendants are collectively referred to herein as “the Parties.”

6 **PROCEDURAL HISTORY AND BACKGROUND FACTS**

7 1. This Settlement Agreement globally resolves the lawsuit entitled *Barboza v. Bud*
8 *Antle, Inc., et al.*, Case No. 20CV001666 (the “Action”).

9 2. The Parties participated in a full-day private mediation with Jeffrey A. Krivis,
10 Esq. on April 14, 2022. The Action did not settle that day. The Parties continued to engage in
11 discovery over the next year-and-a-half and participated in another full-day private mediation
12 with Paul Grossman, Esq. on November 20, 2023 and reached the following settlement.

13 **NOW, THEREFORE**, the Parties hereby agree to settle and resolve the Action as
14 follows:

15 **PRELIMINARY TERMS AND DEFINITIONS**

16 3. “Class Counsel” shall mean the Parris Law Firm and The Downey Law Firm.

17 4. The Parties have agreed to the appointment of Atticus Administration, LLC to
18 perform the duties of the “Third-Party Administrator.”

19 5. “Class Period” shall mean June 16, 2016 through February 18, 2024.

20 6. “Class Members” shall mean all current and former hourly-paid or non-exempt
21 California based employees employed by Defendants within the State of California at any time
22 during the Class Period.

23 7. “PAGA Period” shall mean June 16, 2019 through February 18, 2024.

24 8. “Aggrieved Employees” shall mean all current and former hourly-paid or non-
25 exempt California based employees employed by Defendants within the State of California at
26 any time during the PAGA Period.

27 9. “Notice” shall mean the Notice of Settlement approved by the Court to be mailed
28 out by the Third-Party Administrator to the Class Members and Aggrieved Employees.

10. Defendants represent that the workweeks between June 16, 2016 and October 14, 2023 are approximately 551,862 (“Represented Workweeks”). If the actual number of workweeks during this timeframe exceeds 551,862 by more than 10% as confirmed by the Third-Party Administrator, Plaintiff may cancel this Settlement Agreement and the Parties will return to the same position they were in as of November 19, 2023.

11. Defendants further represent that between June 16, 2016 and October 14, 2023 there were 2,318,075 shifts over five hours, of which 2,104,661 showed compliant meal breaks and the remaining 213,414 shifts were facially non-compliant without applying meal waivers (200,651 after applying meal waivers) (collectively “Represented Shifts”). If these representations are materially false, Plaintiff may cancel this Settlement Agreement and the Parties will return to the same position they were in as of November 19, 2023. Defendants shall also file a declaration signed under penalty of perjury to support preliminary approval of this Settlement Agreement.

12. “Released Parties” means Defendants, its former and present officers, directors, shareholders, trustees, and attorneys.

TERMS OF SETTLEMENT

13. Defendants shall pay Seven Million and Five Hundred Thousand Dollars (\$7,500,000.00) (the “Gross Settlement Amount” or “GSA”) on an “all in,” non-reversionary basis to resolve the Action. Defendants shall pay all employer-side payroll taxes in addition to and separately from the GSA. The GSA will include all Class Member Payments, Class Representative Service Award, Class Counsel’s attorneys’ fees, Class Counsel’s costs, and the Third-Party Administrator’s costs.

14. Defendants shall electronically wire the GSA to the Qualified Settlement Fund established by the Third-Party Administrator within 65 calendar days following the Monterey Superior Court’s order granting final approval of this Settlement Agreement (“Final Approval Order”), or within 5 calendar days following the date of the final disposition of any appeal of the Final Approval Order, whichever is later.

15. Defendants will not oppose Class Counsel's request for attorneys' fees in an

1 amount not to exceed thirty-five percent (35%) of the GSA, or \$2,625,000.00, plus costs not to
2 exceed \$60,000.00. The payment of Class Counsel's attorneys' fees and costs shall be made
3 from the GSA. The Third-Party Administrator shall electronically wire the attorneys' fees and
4 costs to Class Counsel no later than five (5) calendar days after receipt of the GSA.

5 16. Defendants will not oppose Class Counsel's request for a Class Representative
6 Service Award totaling Ten Thousand Dollars (\$10,000.00) to Plaintiff. The payment of the
7 Class Representative Service Award shall be made from the GSA, and shall be in addition to any
8 payment Plaintiff may receive as a Class Member and Aggrieved Employee. The Third-Party
9 Administrator shall issue an IRS Form 1099 to Plaintiff in connection with the Class
10 Representative Service Award. The Third-Party Administrator shall issue the Class
11 Representative Service Award directly to Plaintiff no later than five (5) calendar days after
12 receipt of the GSA.

13 17. The Parties agree that after deducting Class Counsel's attorneys' fees and costs,
14 the Class Representative Service Award, the PAGA Amount, and Third-Party Administrator's
15 costs from the GSA, the remaining amount shall represent the "Net Settlement Amount." The
16 Net Settlement Amount shall be distributed pro rata to Class Members who do not submit a valid
17 and timely opt out notice based on the number of workweeks worked by each Class Member
18 ("Class Member Payment"). The Third-Party Administrator shall issue the Class Member
19 Payments directly to the Class Members no later than five (5) calendar days after receipt of the
20 GSA.

21 18. The Parties agree that Forty-Three Thousand and Seventy-Eight Dollars
22 (\$43,078.00) shall be paid out of the GSA to the Third-Party Administrator for all costs
23 associated with the administration of this Settlement.

24 **SETTLEMENT PAYMENT CALCULATION**

25 19. The Net Settlement Amount of approximately \$4,661,922.00 shall be determined
26 by deducting the following amounts from the GSA of \$7,500,000.00: (1) Class Counsel's
27 attorneys' fees, approved by the Court; (2) Class Counsel's costs, approved by the Court; (3) the
28 Third-Party Administrator's costs in the amount of \$43,078.00; (4) the \$10,000.00 Class

Representative Service Award; and (5) One Hundred Thousand Dollars (\$100,000.00) as civil penalties pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA Amount”).

20. Each Class Member Payment shall be calculated by dividing the Class Member’s total number of workweeks during the Class Period as reflected in Defendants’ records by the total number of workweeks for all Class Members during the Class Period. The resulting number shall be multiplied by the Net Settlement Amount to arrive at each Class Member Payment.

21. Each Class Member Payment will be allocated twenty percent (20%) to wages, for which an IRS Form W-2 shall be issued and traditional payroll taxes and withholdings will be made, and eighty percent (80%) to interest and penalties, for which an IRS Form 1099 shall be issued and no withholdings will be made. Defendants shall pay the employer’s share of the payroll taxes on any amounts allocated as wages separately and in addition to the GSA. Class Members shall be responsible for any personal income taxes owed on the amounts they receive. The Third-Party Administrator shall issue appropriate tax forms with each Class Member Payment.

22. The PAGA Amount of \$100,000.00 shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency (\$75,000.00) (“LWDA PAGA Amount”) and twenty-five percent (25%) to the Aggrieved Employees (“Aggrieved Employee PAGA Amount”). The Aggrieved Employee PAGA Amount shall be distributed pro rata to Aggrieved Employees based on the number of workweeks worked by each Aggrieved Employee during the PAGA Period (“Aggrieved Employee Payment”). Each Aggrieved Employee Payment shall be calculated by dividing the Aggrieved Employee’s total number of workweeks during the PAGA Period as reflected in Defendants’ records by the total number of workweeks for all Aggrieved Employees during the PAGA Period. The resulting number shall be multiplied by the Aggrieved Employee PAGA Amount to arrive at each Aggrieved Employee Payment. One hundred percent of each Aggrieved Employee Payment will be allocated penalties for which an IRS Form 1099 shall be issued and no withholdings will be made.

1 23. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
2 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
3 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
4 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
5 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
6 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
7 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
8 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
9 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
10 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
11 RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND
12 TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH
13 THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON
14 THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR
15 TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
16 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
17 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
18 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
19 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
20 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF
21 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
22 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
23 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
24 AGREEMENT.

25 24. Each Class Member Payment paid to Class Members under this Settlement
26 Agreement and each Aggrieved Employee Payment paid to Aggrieved Employees, as well as any
27 other payments made pursuant to this Settlement Agreement made to Class Members and
28 Aggrieved Employees, will not be utilized to calculate any additional benefits under any benefit

1 plans to which any Class Member may be eligible, including, but not limited to profit-sharing
2 plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO
3 plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement
4 Agreement will not affect any rights, contributions, or amounts to which any Class Member or
5 Aggrieved Employee may be entitled under any benefit plans.

6 25. Class Members and Aggrieved Employees shall have one hundred and twenty
7 (120) days to cash their settlement checks. Any settlement checks not cashed after 120 days
8 from the date of mailing of the checks shall be sent to the State of California Unclaimed Property
9 Fund in the Class Members' or Aggrieved Employees' names.

10 **NOTICE PROCESS**

11 26. Within five (5) business days after the Court's entry of an order granting
12 preliminary approval of this Settlement Agreement, Defendants shall provide to the Third-Party
13 Administrator a Settlement Member List which includes each Class Member and Aggrieved
14 Employees' first and last name, last known mailing address, telephone number, social security
15 number, dates of employment during the Class Period and PAGA Period, workweeks and shifts
16 during the Class Period, and workweeks and shifts during the PAGA Period. All information
17 provided to the Third-Party Administrator shall be kept confidential and shall not be disclosed,
18 either in writing or orally, by the Third-Party Administrator, except that the Third-Party
19 Administrator will disclose to Class Counsel within one (1) calendar day of receipt of the
20 Settlement Member List the total number of Class Members, the total number of Aggrieved
21 Employees, the total number of workweeks during the Class Period and the total number of
22 workweeks during the PAGA Period, and verify the Represented Workweeks and Represented
23 Shifts with Class Counsel and Defendants' counsel. The Third-Party Administrator shall use due
24 care with respect to the storage, custody, use, and/or dissemination of this confidential
25 information. Such information must be stored in a secure fashion and all persons who access the
26 data must agree to keep it confidential.

27 27. Within five (5) calendar days after receipt of the Settlement Member List, the
28 Third-Party Administrator shall send the Notice as approved by the Court to the Class Members

1 and Aggrieved Employees.

2 28. The Third-Party Administrator will use the United States Postal Service National
3 Change of Address (“NCOA”) List to verify the accuracy of all addresses on the Settlement
4 Member List before the initial mailing date to ensure that the Notice is sent to all Class Members
5 and Aggrieved Employees at the addresses most likely to result in immediate receipt of the
6 Notice. It will be conclusively presumed that, if an envelope so mailed has not been returned
7 within thirty (30) calendar days of the mailing, the Class Members and Aggrieved Employees
8 received the Notice. With respect to any returned envelopes, the Third-Party Administrator will
9 perform a routine skip trace procedure to obtain a current address and, if an updated address is
10 located, shall then re-mail the envelope to such address within three (3) court days of the receipt
11 of the returned envelope.

12 **DISPUTE, OPT OUT, AND OBJECTION PROCESS**

13 29. Each Class Members’ and Aggrieved Employees’ unique Notice will state his or
14 her total number of workweeks during the Class Period, total number of workweeks during the
15 PAGA Period, Aggrieved Employee Payment, and Class Member Payment prior to tax
16 withholdings. Class Members and Aggrieved Employees will have thirty (30) calendar days
17 from the mailing of the Notice to dispute his or her total number of workweeks and payment
18 calculation by submitting documentary evidence to the contrary to the Third-Party
19 Administrator. No workweek dispute documentation will be considered if postmarked after the
20 30 calendar-day period. Any disputes regarding a Class Member’s and Aggrieved Employee’s
21 total workweeks will be resolved and decided by the Third-Party Administrator prior to the date
22 of mailing the Class Member Payments and Aggrieved Employee Payments, and the Third-Party
23 Administrator’s decision will be final, binding, and non-appealable.

24 30. Class Members will have thirty (30) calendar days from the mailing of the Notice
25 to object or opt out of the settlement by submitting a written notice of objection or opt out to the
26 Third-Party Administrator.

27 31. Class Members may opt out of the settlement by following the directions in the
28 Notice. Any such request must be postmarked not more than thirty (30) calendar days after the

1 date the Notice is mailed to the Class Members (or not more than ten (10) calendar days after the
2 date the Notice is re-mailed, in the circumstance described above). Requests to opt out that do
3 not include all required information, or that are not submitted on a timely basis, will be deemed
4 null, void, and ineffective. Persons who are eligible to, and do, submit valid and timely requests
5 to opt out of the settlement will not participate in the settlement, nor will they be bound by the
6 terms of the proposed settlement, if it is approved, or the final judgment in this Action.

7 32. Objections to the settlement must be submitted to the Third-Party Administrator
8 and postmarked not more than thirty (30) calendar days after the date the Notice is mailed to the
9 Class Members (or not more than ten (10) calendar days after the date the Notice is re-mailed, in
10 the circumstance described above). The Third-Party Administrator shall promptly forward any
11 objections received to counsel for the Parties. Class Counsel and Counsel for Defendants shall
12 file any responses to objections no later than fifteen (15) court days before the date of the final
13 fairness and approval hearing. The Class Notice shall include specific instructions to Class
14 Members for submitting objections. A Class Member who wishes to object but who fails to
15 comply with the instructions set forth in the Class Notice shall be deemed not to have objected.

16 33. If five percent (5%) or more Class Members exercise their rights to exclude
17 themselves and opt out of the settlement, Defendants may, in their sole discretion, unilaterally
18 withdraw from and terminate the settlement no later than five (5) court days prior to the date of
19 the Final Approval Hearing. In the event of Defendants' withdrawal, no party may use the fact
20 that the Parties agreed to the settlement for any reason. Defendants will be responsible for
21 paying the Third-Party Administrator's actual incurred costs if they or any of them withdraw
22 from the settlement under this paragraph, and Defendants agree that the 5-year deadline to bring
23 this case to trial pursuant to California Code of Civil Procedure section 583.310 will be extended
24 by the number of days between November 20, 2023 and the date of termination of the settlement.

25 **RELEASE OF CLAIMS**

26 34. **Release by Class Members.** Upon the Third-Party Administrator's receipt of the
27 full Gross Settlement Amount, all Class Members who do not timely opt out of the Settlement
28 and all Aggrieved Employees shall release all claims during the Class Period against the

Released Parties alleged in the First Amended Complaint filed on October 5, 2020, or that could have been alleged based on the facts alleged therein, for unpaid wages including overtime and doubletime, meal period violations and premiums, rest period violations and premiums, unpaid minimum wage, failure to pay for all time worked, failure to pay all required wages and earnings at the regular rate of pay, untimely payment of final wages, non-compliant wage statements, violation of Business and Professions Code sections 17200, *et seq.*, and violation of California Labor Code sections 2698, *et seq.* for the underlying Labor Code violations alleged in the First Amended Complaint; as well as any claims for interest, penalties (including but not limited to waiting time penalties), as well as any claims under the California Labor Code for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 226, 226.7, 246, and 512.

35. **General Release by Plaintiff.** In consideration and upon payment of the Class Representative Service Award, Plaintiff generally releases the Released Parties from all claims known and unknown, arising from or related to her employment with Defendants during the Class Period, except for any workers' compensation claims or other claims that cannot be released by law.

NO ADMISSION

36. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants, and Defendants expressly deny any such liability. The Parties hereto have entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

PARTIES' AUTHORITY

37. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

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1 **MUTUAL FULL COOPERATION**

2 38. The Parties agree to fully cooperate with each other to accomplish the terms of
3 this Settlement Agreement, including, but not limited to, execution of such documents and to
4 take such other action as may reasonably be necessary to implement the terms of this Settlement
5 Agreement. The Parties shall use their best efforts, including all efforts contemplated by this
6 Settlement Agreement and any other efforts that may become necessary by order of the Court, or
7 otherwise, to effectuate this Settlement Agreement and the terms set forth herein.

8 39. If the Court fails to approve this Settlement for any reason, including
9 enforceability of the Releases, the Parties will engage in reasonable efforts to resolve any issues
10 identified by the Court, taking into consideration the terms of this Agreement. Should the Parties
11 ultimately fail to agree on revised terms, or should the Court ultimately decline to approve this
12 Settlement, the Settlement shall be considered void *ab initio* and shall be of no force or effect
13 whatsoever, and shall not be referred to or utilized for any purposes whatsoever, and the Parties
14 hereby stipulate that the 5-year deadline to bring this case to trial pursuant to California Code of
15 Civil Procedure section 583.310 will be extended by the number of days between November 20,
16 2023 and the date the Settlement is considered void *ab initio*.

17 **MODIFICATION**

18 40. This Settlement Agreement may not be changed, altered, amended or modified,
19 except in writing and signed by the Parties, and approved by the Court. This Settlement
20 Agreement may not be discharged except by performance in accordance with its terms or by a
21 writing signed by the Parties.

22 **ENTIRE AGREEMENT**

23 41. This Settlement Agreement contains the entire agreement between the Parties
24 relating to the proposed Settlement and transaction contemplated herein, and all prior or
25 contemporaneous agreements, understandings, representations, and statements, whether oral or
26 written and whether by a party or such party's legal counsel, are merged herein. No rights
27 hereunder may be waived except in writing.

28 ////

BINDING ON ASSIGNS

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

COUNTERPARTS

43. This Settlement Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to the Parties. For purposes of this Settlement Agreement, a facsimile signature shall be as valid and enforceable as an original.

COURT'S CONTINUING JURISDICTION

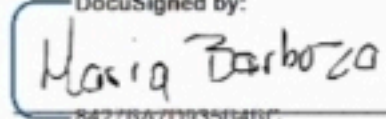
44. The parties consent to the jurisdiction of the Superior Court of the State of California, County of Monterey, in the above-entitled action, and to the Judge who approves the Settlement Agreement (or other Judge as may in the future be assigned the case) to retain jurisdiction over this action and this Settlement Agreement in order to enforce, construe, and interpret this Settlement Agreement and the settlement, to supervise all notices, the administration of the settlement and this Agreement and distribution of the GSA, and to hear, adjudicate, and resolve any disputes arising from or related to the settlement and/or this Agreement, pursuant to California Code of Civil Procedure section 664.6.

INTERIM STAY OF PROCEEDINGS

45. The Parties agree to hold all proceedings in the Actions, except such proceedings necessary to implement and complete the Settlement, in abeyance pending approval of this Settlement Agreement, including the deadline for Plaintiff to bring the Action to trial pursuant to California Code of Civil Procedure section 583.310.

SO STIPULATED AND AGREED

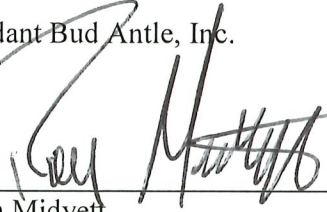
Date: 2/9/2024

DocuSigned by:

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Plaintiff Maria Barboza

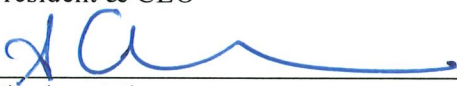


1 Date: Feb. 9, 2024

Defendant Bud Antle, Inc.

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3
4 By: 

Ron Midyett
President & CEO

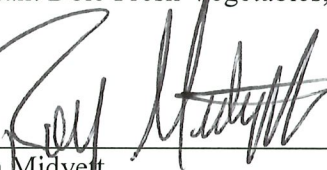
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6 By: 

Charlene Mims
Senior Vice President

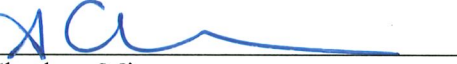


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8 Date: Feb. 9, 2024

Defendant Dole Fresh Vegetables, Inc.

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11 By: 

Ron Midyett
President & CEO

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13 By: 

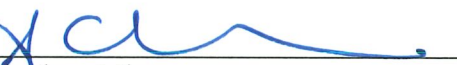
Charlene Mims
Senior Vice President

14
15 Date: Feb. 12, 2024

Defendant Dole Foods Company, Inc.

16
17
18 By: 

Jared Gale
Vice President & General Counsel

19
20
21 By: 

Charlene Mims
Senior Vice President