

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

2 IT IS HEREBY STIPULATED by and between Plaintiffs Giovanni Mitchell, Mackenzie
3 Hernandez, Elora Dorn, and Ammon Mendes, on behalf of themselves and others similarly situated,
4 on the one hand, and Defendants Tocaya Management LLC, Tocaya Organica LLC, Toca Madera
5 Management LLC, The Madera Group LLC, and Noble 33 Management LLC, on the other hand, and
6 subject to the approval of the Court, that the Lawsuit is hereby being compromised and settled pursuant
7 to the terms and conditions set forth in this Stipulation of Class and Representative Action Settlement
8 (“Settlement Agreement”) and that the Court shall make and enter judgment, subject to the continuing
9 jurisdiction of the Court as set forth below, subject to the definitions, recitals and terms set forth herein
10 which by reference become an integral part of this Settlement Agreement.

11 **DEFINITIONS**

12 1. “Administration Costs” means fees or costs of settlement administration services
13 rendered in administering the settlement.

14 2. “Attorneys’ Fees and Costs” means the amount the Court authorizes to be paid to Class
15 Counsel for attorneys’ fees, not to exceed 35% of the Gross Settlement Amount, and litigation costs
16 not to exceed \$35,000, paid from the Gross Settlement Amount.

17 3. “Class Counsel” means CounselOne, P.C. and Custis Law, P.C.

18 4. “Class” or “Class Member(s)” means all current and former non-exempt employees
19 who worked for Defendants Tocaya Management LLC, Tocaya Organica LLC, Toca Madera
20 Management LLC, The Madera Group LLC, and Noble 33 Management LLC, and/or their predecessor
21 or merged entities, at Tocaya Organica and/or Toca Madera Restaurants within the State of California
22 during the Class Period.

23 5. “Class List” means a list of contact information, compiled by Defendants based on their
24 records, containing the following information for each Class Member: full name, last-known mailing
25 address, last-known telephone number, Social Security number, number of Workweeks during the
26 Class Period, number of pay periods during the PAGA Period, along with the start and end dates of
27 employment in a non-exempt position at any of Defendants’ Tocaya Organica and/or Toca Madera
28 Restaurants restaurant locations in California during the Class Period.

1 6. “Class Notice” means the document to be sent via first class U.S. mail to the Class
2 following Preliminary Approval, in substantially the form that is attached hereto as “**EXHIBIT 1**,” or
3 otherwise approved by the Court, which will notify Class Members of the settlement, explain the basic
4 terms of the Settlement Agreement, and inform Class Members of their options with regard to the
5 settlement.

6 7. “Class Period” means the period beginning on April 6, 2016 and ending on February
7 15, 2022.

8 8. “Court” means the Superior Court for the State of California, County of Los Angeles.

9 9. “Defendants” means Tocaya Management LLC, Tocaya Organica LLC, Toca Madera
10 Management LLC, The Madera Group LLC, and Noble 33 Management LLC.

11 10. “Defendants’ Counsel” means Fisher Phillips LLP and Ballard Rosenberg Golper &
12 Savitt, LLP.

13 11. “Effective Date” means one (1) calendar day after either (a) if no objections are timely
14 filed, the final approval date; (b) if objections are filed but no appeal is filed, the expiration date of the
15 time for filing notice of any appeal from final approval date; or (c) if an appeal is filed, the latest of (i)
16 the date of final affirmance of an appeal of that Final Approval Order, (ii) the expiration of the time
17 for a petition for review or writ of certiorari with respect to the Final Approval Order and, if review
18 or certiorari is granted, the date of final affirmance of the Final Approval Order following review
19 pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Final Approval Order
20 or the final dismissal of any proceeding on review or certiorari with respect to the Final Approval
21 Order that has the effect of confirming the Final Approval Order.

22 12. “Employer’s Share of Payroll Taxes” means Defendants’ share of all applicable
23 federal, state and local payroll taxes and customary withholdings, including the employer FICA,
24 FUTA, and SDI contributions, on the portion of the Individual Settlement Share that constitutes wages.
25 The Employer’s Share of Payroll Taxes shall be separately paid by Defendants and shall not be paid
26 from the Gross Settlement Amount or Net Settlement Amount.

27 13. “Enhancement Payments” means the amount that the Court authorizes to be paid to
28 each of the Class Representatives, in addition to their Individual Settlement Payments, in recognition

1 of their efforts and risks in assisting with the prosecution of the Lawsuit and general release of all
2 claims under California Code of Civil Procedure section 1542.

3 14. “Final Approval Hearing” means the hearing following Preliminary Approval and
4 distribution of the Class Notice to Class Members and PAGA Group Members, at which the Court
5 will determine whether to fully and finally approve the fairness and reasonableness of this Settlement
6 Agreement, and at which Plaintiffs will request that the Court enter the Final Approval Order and
7 Judgment, approve and award Attorneys’ Fees and Costs, Enhancement Payments, Individual
8 Settlement Payments, Administration Costs, and LWDA Payment, and take other appropriate or
9 necessary action as described herein.

10 15. “Final Approval Hearing Date” means the date of the Final Approval Hearing.

11 16. “Final Approval Order and Judgment” means the order or orders entered by the Court
12 that, *inter alia*, finally approve(s) this Settlement Agreement, disposes of all issues raised in the
13 Lawsuit by way of judgment in conformity with California Rules of Court 3.769, and awards and
14 orders the payment of all required amounts pursuant to the terms of this Settlement Agreement.

15 17. “Gross Settlement Amount” or “GSA” means the maximum total payment of Two
16 Million Dollars (\$2,000,000) payable by Defendants under this Settlement Agreement, inclusive of all
17 Individual Settlement Payments, Attorneys’ Fees and Costs, Administration Costs, Enhancement
18 Payments to the Class Representatives, and the LWDA Payment. The Gross Settlement Amount is
19 non-reversionary, subject to increase pursuant to Paragraph 57, and exclusive of the Employer’s Share
20 of Payroll Taxes which shall be paid separately.

21 18. “Individual Settlement Share(s)” means a Settlement Class Member’s *pro rata* share
22 of the Net Settlement Amount, which is to be determined in conformity with Paragraph 51(f), which
23 is inclusive of the employee-side payroll taxes, contributions, and withholdings with respect to the
24 wage portion of the Individual Settlement Shares.

25 19. “Individual Settlement Payment(s)” means the sum of the Individual Settlement Share
26 and, if applicable, the individual PAGA payment.

27 20. “Lawsuit” means the action entitled *Giovanni Mitchell, et al. v. The Madera Group*
28 *LLC, et al.*, filed on June 25, 2020 in the Los Angeles County Superior Court and assigned case number

1 20STCV24075.

2 21. “LWDA Payment” means the payment that is to be approved by the Court pursuant to
3 Labor Code section 2699 and distributed as follows: seventy-five (75%) of the PAGA Payment (*i.e.*,
4 \$150,000) to the California Labor and Workforce Development Agency (“LWDA”). Class Counsel
5 shall give timely notice of the settlement to the LWDA under Labor Code section 2699(1)(2).

6 22. “Net Settlement Amount” or “NSA” means the portion of the Gross Settlement Amount
7 that is available for distribution to Settlement Class Members, which will be the Gross Settlement
8 Amount less the amounts awarded for Attorneys’ Fees and Costs, Enhancement Awards, PAGA
9 Payment, and Administration Costs.

10 23. “PAGA Group Member(s)” means all Class Members employed by Defendant(s)
11 within California at any time during the PAGA Period.

12 24. “PAGA Group Members’ Released Claims” means all liability, causes of action and
13 and/or claims for civil penalties arising or accruing under the PAGA during the PAGA Period that
14 were alleged or reasonably could have been alleged based on the facts alleged in the First Amended
15 Class and Representative Action Complaint filed by Plaintiffs in the Lawsuit including, but not limited
16 to, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512,
17 558, 1174, 1174.5, 1182.12 *et seq.*, 1194, 1194.2, 1197, 1198.1, 1198, 2800, and 2802 and any
18 applicable Wage Order(s); and shall further release the Released Parties from any claims and/or
19 liability for interest and all attorneys’ fees and costs available under the PAGA arising out of the facts
20 asserted in the First Amended Class and Representative Action Complaint for the aforementioned
21 Labor Code violations.

22 25. “PAGA Payment” means the payment of penalties pursuant to the Labor Code sections
23 2968 *et seq.*, the Private Attorneys General Act of 2004 (“PAGA”), that the Parties have agreed is a
24 reasonable sum to be paid in settlement of the PAGA claims encompassed by the underlying
25 allegations in the Lawsuit, which is \$200,000.

26 26. “PAGA Period” means the period beginning on March 6, 2019 and ending on February
27 15, 2022.

28 27. “Parties” means Plaintiffs, individually and on behalf of all Class Members and PAGA

1 Group Members as defined in Paragraphs 4 and 23 herein, and Defendants, who are individually
2 referred to as “Party.”

3 28. “Pay Period(s)” means pay periods during the PAGA Period which, based on
4 Defendants’ records, PAGA Group Members were actively employed by Defendant(s) and worked
5 during at least a portion of such pay period in a non-exempt position with Defendant(s) in California.

6 29. “Plaintiffs” or “Class Representatives” means Plaintiffs Giovanni Mitchell, Mackenzie
7 Hernandez, Elora Dorn, and Ammon Mendes.

8 30. “Plaintiffs’ Released Claims” means that, in addition to Settlement Class Members’
9 Released Claims and PAGA Group Members’ Released Claims, in exchange for the consideration
10 recited in this Settlement Agreement including, but not limited to, the Enhancement Payments,
11 Plaintiffs Giovanni Mitchell, Mackenzie Hernandez, Elora Dorn, and Ammon Mendes release, acquit,
12 discharge, covenant not to sue any of the Defendants for any claim, whether known or unknown, which
13 they have ever had or hereafter may claim to have, arising on or before the date they signed this
14 Settlement Agreement, including without limitation to, any claims relating to or arising out of any
15 aspect of their relationships with Defendants. The specific terms and details of which are set forth in
16 Paragraph 50.

17 31. “Preliminary Approval Order” means the order to be entered by the Court that
18 preliminarily approves the terms and conditions of this Settlement Agreement, including the content
19 of the Class Notice, and sets a Final Approval Hearing.

20 32. “Released Parties” means Defendants and each of their respective past, present and/or
21 future, direct and/or indirect, officers, directors, members, managers, employees, agents,
22 representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
23 companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, joint venturers and any
24 individual or entity which could be jointly liable with any of the foregoing under contract, common
25 law, or pursuant to Labor Code section 558.1. Released Parties include, but are not limited to, all
26 Defendants, One Table Restaurant Brands, Inc., Tocaya Holdings LLC, New Tocaya Holdings LLC,
27 Tocaya Palisades LLC, Tocaya Santa Monica LLC, Tocaya SD LLC, Tocaya South Bay LLC, Tocaya
28 Sportsman LLC, Tocaya Sunset LLC, Tocaya Toluca LLC, Tocaya Venice LLC, Noble 33 Holdings

1 LLC, Tosh Berman, Amrou Almanaseer, and Michael Tanha.

2 33. “Response Deadline” means the last date on which Class Members may submit an opt-
3 out/request for exclusion or objection to the settlement, which shall be the later of either forty five (45)
4 calendar days after the Settlement Administrator mails the original Class Notice to Class Members or
5 thirty (30) calendar days after the Settlement Administrator re-mails any Class Notice which was
6 returned to the Settlement Administrator.

7 34. “Settlement Administrator” means CPT Group, Inc., the neutral third-party
8 administrator mutually agreed upon by the Parties, subject to approval by the Court.

9 35. “Settlement Class” or “Settlement Class Members” means Class Members who have
10 not submitted a timely and valid opt-out/Request for Exclusion pursuant to Paragraph 58.

11 36. “Settlement Class Members’ Released Claims” means all liabilities, causes of action
12 and and/or claims that were alleged or that could have been alleged based on the facts asserted in the
13 First Amended Class and Representative Action Complaint filed by Plaintiffs in the Lawsuit arising
14 at any time during the Class Period including, but not limited to, all of the following claims for relief:
15 (1) failure to pay minimum, regular, overtime, or double time wages, and failure to pay other wages
16 of any kind; (2) failure to pay split shift pay / split shift premiums; (3) failure to provide reporting-
17 time pay; (4) failure to authorize and permit rest periods or pay all rest period premium pay; (5) failure
18 to provide meal periods or pay all meal period premium pay; (6) failure to provide accurate and
19 itemized wage statements; (7) failure to pay all wages timely; (8) failure to pay final wages due at
20 separation; (9) failure to reimburse or indemnify all necessary business expenses; (10) failure to
21 maintain records in violation of Labor Code section 1174(d); (11) claims brought under Business &
22 Professions Code sections 17200, *et seq.*, including, but not limited to, all claims for unfair, unlawful
23 and harmful conduct to Settlement Class Members, the general public, and Defendants’ competitors,
24 and claims of unlawfully gaining an unfair advantage over other businesses; and (12) any claims for
25 statutory penalties, interest and attorneys’ fees and costs arising out of the facts asserted in the First
26 Amended Class and Representative Action Complaint and the aforementioned causes of action. This
27 release excludes the release of claims not permitted by law. The specific terms and details of which
28 are set forth in Paragraph 48.

37. “Workweek(s)” means a seven-day work week during the Class Period during which, based on Defendants’ records, Class Members were actively employed by Defendant(s) and worked at least a portion of such workweek in a non-exempt position in California.

RECITALS

38. **Procedural History.** On June 25, 2020, Plaintiff Giovanni Mitchell filed his initial complaint asserting a single cause of action pursuant to California’s Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* (“PAGA”), based on alleged violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1198, 2800 and 2802. In a related action, Plaintiffs Elora Dorn, Mackenzie Hernandez, and Ammon Mendes asserted wage and hour class and representative action claims against Defendants. On February 17, 2022, the Court granted leave to file a First Amended Class and Representative Complaint adding Plaintiffs Dorn, Hernandez, and Mendes, as well as the wage and hour class claims asserted by them.

39. On February 18, 2022, Plaintiffs filed their First Amended Class and Representative Complaint. The First Amended Class and Representative Complaint alleges causes of action for: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to provide accurate itemized wage statements; (6) failure to pay all wages owed timely and upon separation of employment; (7) failure to reimburse business expenses; (8) failure to provide split shift premium pay; (9) failure to provide reporting-time pay; (10) violation of Labor Code § 1174(d); (11) Violation of Business & Professions Code §§ 17200, *et seq.*; and (12) civil penalties pursuant to California’s Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq.*).

40. **Pre-Filing PAGA Notices.** On March 6, 2020, counsel for Plaintiff Mitchell provided pre-filing written notice to the LWDA and by certified mail to Defendants of the above-identified allegations on behalf of Plaintiff Mitchell and similarly situated aggrieved employees in accord with the PAGA, Labor Code sections 2698, *et seq.* On June 16, 2020, counsel for Plaintiffs Hernandez, Dorn, and Mendes provided pre-filing written notice to the LWDA and by certified mail to Defendants of the above-identified allegations on behalf of Plaintiffs Hernandez, Dorn, and Mendes and similarly situated aggrieved employees in accord with the PAGA, Labor Code sections 2698, *et seq.* On August

24, 2020, counsel for Plaintiffs Hernandez, Dorn, and Mendes provided an amended written notice to the LWDA by certified mail to Defendants of the above-identified allegations on behalf of Plaintiffs Dorn and Mendes and similarly situated aggrieved employees in accord with the PAGA, Labor Code sections 2698, *et seq*

41. **Discovery And Investigation.** The Parties engaged in extensive informal and formal discovery and investigation, and such was sufficient to allow the Parties to evaluate the case prior to settlement. In advance of mediation, Class Counsel requested production of key information and documents such as the number of Class Members and PAGA Group Members, relevant wage and hour policies, time and payroll records, rates of pay, among other things. Class Counsel reviewed policy documents, interviewed Class Members, analyzed time and payroll records, and engaged an expert to determine violation rates across the Class. The Parties met and conferred regarding the discovery.

42. **Mediation.** The Parties participated in multiple mediations. In July 2020, after having performed extensive investigation and analysis of the legal and factual issues and risks, the Parties participated in a full-day mediation before mediator, Hon. Peter D. Lichtman (Ret.) of Signature Resolution, in an attempt to resolve the Lawsuit. The settlement discussions were conducted at arm's-length. No settlement was reached. Thereafter, in July 2021 and November 2021, the Parties participated in additional mediation sessions with Paul Grossman, Esq. of Paul Hastings LLP. These settlement discussions were also conducted at arm's-length. The Parties accepted the mediator's proposal for settlement after participating in these additional mediation sessions; the Parties finally came to agreement on all material terms of this settlement and resolution of the Lawsuit.

43. **Memorandum of Understanding.** In January 2022, the Parties entered into a short form Memorandum of Understanding as to the material terms of the settlement.

44. **Benefits of Settlement to Class Members.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to litigate their disputes through trial and through any possible appeals. Plaintiffs and Class Counsel have also taken into account the uncertainty and risks of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Further, Plaintiffs and Class Counsel are aware of the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit, both generally and in response to Defendants' defenses thereto,

1 and the difficulties in establishing damages for Class Members. Based on the foregoing, Plaintiffs and
2 Class Counsel have determined that the settlement set forth herein is a fair, adequate and reasonable
3 settlement, and is in the best interests of Class Members and PAGA Group Members.

4 45. **Defendants' Reasons for Settlement and Non-Admission.** Defendants have
5 concluded that any further defense of this litigation would be protracted and expensive for all Parties.
6 Substantial amounts of time and resources of Defendants have and, unless this settlement is made, will
7 continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendants have also taken
8 into account the risks of further litigation in reaching their decision to enter into this Settlement
9 Agreement. Despite continuing to contend that they are not liable for any of the claims set forth by
10 Plaintiffs, Defendants have, nonetheless, agreed to settle in the manner and upon the terms set forth in
11 this Settlement Agreement to put to rest the claims alleged in the Lawsuit. Defendants have claimed
12 and continue to claim that the Plaintiffs' Released Claims, Settlement Class Members' Released
13 Claims, and PAGA Group Members' Released Claims have no merit and do not give rise to liability.
14 This settlement is a compromise of disputed claims. As further set forth in Paragraph 47, the Parties
15 specifically agree that the agreement of Defendants to settle this matter is not, and shall not be
16 construed as, an admission of any wrongdoing whatsoever by Defendants against Plaintiffs and/or any
17 Settlement Class Members.

18 46. **This Settlement Is Fair, Adequate and Reasonable.** The Parties believe this
19 settlement is a fair, adequate and reasonable settlement of the Lawsuit and have arrived at this
20 settlement after extensive arms-length negotiations, taking into account all relevant factors, present
21 and potential. In addition, the mediator may, at his discretion, execute a declaration supporting the
22 settlement and the reasonableness of this settlement, and the Court, may in its discretion, contact the
23 mediator to discuss the settlement and whether or not the settlement is fair and reasonable.

24 **TERMS AND CONDITIONS**

25 **NOW, THEREFORE**, in consideration of the Recitals above and the promises and warranties
26 set forth below, and intending to be legally bound and acknowledging the sufficiency of the
27 consideration and undertakings set herein, the Plaintiffs, individually and on behalf of Class Members
28 and PAGA Group Members, on the one hand, and Defendants, on the other hand, agree that the

Lawsuit shall be, and is finally and fully compromised and settled on the following terms and conditions, subject to Court approval:

47. **Non-Admission of Liability.** The Parties enter into this Settlement Agreement to resolve the Lawsuit and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement Agreement, Defendants do not admit, and specifically deny, that they have: violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; or engaged in any other unlawful conduct or wrongdoing with respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendants of any such violation(s) or failure(s) to comply with any applicable law. Furthermore, the Parties agree that the settlement of this action on a class and representative action basis shall not impact the enforceability of any agreement to arbitrate or class or representative action waiver entered between Defendants and any Settlement Class Member. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendants or to establish the existence of any condition constituting a violation of, or a noncompliance with, federal, state, local or other applicable law. In addition, as set forth herein, the Parties intend this settlement to be contingent upon the Preliminary Approval and Final Approval of this Settlement Agreement; and the Parties do not waive, and instead expressly reserve, their respective rights to prosecute and defend the Lawsuit as if this Settlement Agreement never existed in the event the settlement is not finally approved as set forth herein.

48. **Release of Claims by Settlement Class Members.**

Upon the Effective Date, Plaintiff and all Class Members who do not opt-out of the settlement (Settlement Class Members), for and in consideration of the Gross Settlement Amount, along with the terms and undertakings herein, the sufficiency and fairness of which are acknowledged, release and forever discharge the Released Parties from all liabilities, causes of means all liabilities, causes of action and and/or claims that were alleged or that could have been alleged based on the facts asserted

1 in the First Amended Class and Representative Action Complaint filed by Plaintiffs in the Lawsuit
2 arising at any time during the Class Period including, but not limited to, all of the following claims for
3 relief: (1) failure to pay minimum, regular, overtime, or double time wages, and failure to pay other
4 wages of any kind; (2) failure to pay split shift pay / split shift premiums; (3) failure to provide
5 reporting-time pay; (4) failure to authorize and permit rest periods or pay all rest period premium pay;
6 (5) failure to provide meal periods or pay all meal period premium pay; (6) failure to provide accurate
7 and itemized wage statements; (7) failure to pay all wages timely; (8) failure to pay final wages due at
8 separation; (9) failure to reimburse or indemnify all necessary business expenses; (10) failure to
9 maintain records in violation of Labor Code section 1174(d); (11) claims brought under Business &
10 Professions Code sections 17200, *et seq.*, including, but not limited to, all claims for unfair, unlawful
11 and harmful conduct to Settlement Class Members, the general public, and Defendants' competitors,
12 and claims of unlawfully gaining an unfair advantage over other businesses; and (12) any claims for
13 statutory penalties, interest and attorneys' fees and costs arising out of the facts asserted in the First
14 Amended Class and Representative Action Complaint and the aforementioned causes of action
15 (collectively, the "Settlement Class Members' Released Claims"). This release excludes the release of
16 claims not permitted by law. Notwithstanding the foregoing, this release of the Settlement Class
17 Members' Release Claims shall become null and void if Defendants fail to pay the Gross Settlement
18 Amount and the Employer's Share of Payroll Taxes in compliance with Paragraph 61 of this
19 Settlement Agreement, and shall remain null and void until Defendants fully fund the Settlement.

20 49. **Release of Claims by PAGA Group Members.**

21 Upon the Effective Date, all PAGA Group Members will release the Released Parties from all
22 liability, causes of action and and/or claims for civil penalties arising or accruing under the PAGA
23 during the PAGA Period that were alleged or reasonably could have been alleged based on the facts
24 alleged in the First Amended Class and Representative Action Complaint filed by Plaintiffs in the
25 Lawsuit including, but not limited to, alleged violations of Labor Code sections 201, 202, 203, 204,
26 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12 *et seq.*, 1194, 1194.2, 1197, 1198.1,
27 1198, 2800, and 2802 and any applicable Wage Order(s); and shall further release the Released Parties
28 from any claims and/or liability for interest and all attorneys' fees and costs available under the PAGA

1 arising out of the facts asserted in the First Amended Class and Representative Action Complaint for
2 the aforementioned Labor Code violations (collectively, the “PAGA Group Members’ Released
3 Claims”). Notwithstanding the foregoing, this release of the PAGA Group Members’ Released Claims
4 shall become null and void if Defendants fail to pay the Gross Settlement Amount and the Employer’s
5 Share of Payroll Taxes in compliance with Paragraph 61 of this Settlement Agreement, and shall
6 remain null and void until Defendants fully fund the Settlement.

7 50. **General Release by Plaintiffs Only.**

8 Upon the Effective Date, in addition to the Settlement Class Members’ Released Claims and
9 PAGA Group Members’ Released Claims, and in exchange for and in consideration of the Individual
10 Settlement Payment and Class Representative Enhancement Payments, along with the terms and
11 undertakings herein, the sufficiency and fairness of which are acknowledged, Plaintiffs each,
12 individually, release, acquit, discharge, and covenant not to sue Defendants for any claim, whether
13 known or unknown, which they have ever had, or hereafter may claim to have, arising on or before
14 the date they signed this Settlement Agreement, including without limitation to, any claims relating to
15 or arising out of any aspect of their relationships with Defendants. The release by Plaintiffs includes a
16 waiver of their individual rights under Section 1542 of the Civil Code as follows:

17 **A general release does not extend to claims that the creditor or**
18 **releasing party does not know or suspect to exist in his or her favor**
19 **at the time of executing the release and that, if known by him or her,**
20 **would have materially affected his or her settlement with the debtor**
 or released party.

21 Accordingly, if the facts relating in any manner to this Settlement Agreement are found hereafter to
22 be other than or different from the facts now believed to be true by Plaintiffs, Plaintiffs’ release of
23 claims contained herein shall be effective as to all unknown claims (again, “Plaintiffs’ Released
24 Claims”). Notwithstanding the foregoing, this release of the Plaintiffs’ Released Claims shall become
25 null and void if Defendants fail to pay the Gross Settlement Amount and the Employer’s Share of
26 Payroll Taxes in compliance with Paragraph 61 of this Settlement Agreement, and shall remain null
27 and void until Defendants fully fund the Settlement.

28 51. **Payments under the Settlement.** In consideration of the mutual covenants and

promises set forth herein, Defendants agree to pay the Gross Settlement Amount of Two Million Dollars (\$2,000,000). Defendants shall not be required to pay any amount above the Gross Settlement Amount under this Settlement Agreement, with the exception of the Employer's Share of Payroll Taxes, and, if the escalator clause is triggered, in accordance with Paragraph 57. The Parties agree that the Gross Settlement Amount will be paid by Defendants on a non-reversionary basis and no portion of the Gross Settlement Amount will revert to Defendants. At no time shall Defendants have the obligation to segregate the funds comprising the Gross Settlement Amount, and Defendants shall retain exclusive authority over, and the responsibility for, those funds through and until the date Defendants are obligated to fund the settlement through an order of final approval. The Parties agree, subject to Court approval, that the Gross Settlement Amount shall be apportioned as follows:

a. Plaintiffs will apply to the Court for an award of attorneys' fees of no more than thirty five percent (35%) of the Gross Settlement Amount (*i.e.*, \$700,000) to Class Counsel ("Attorneys' Fees") and for an award of reimbursement of actual litigation costs and expenses up to Thirty-Five Thousand Dollars (\$35,000) to Class Counsel ("Attorneys' Costs"). The Attorneys' Fees and Attorneys' Costs (again, in the aggregate, "Attorneys' Fees and Costs") are included in, and will be paid from, the Gross Settlement Amount. Defendants will not oppose such application.

b. Plaintiffs will also apply to the Court for payment to the Settlement Administrator for the costs of notice and settlement administration not to exceed Sixty Thousand Dollars (\$60,000) (again, "Administration Costs"). The Administration Costs are included in, and will be paid from, the Gross Settlement Amount. Defendants will not oppose such application.

c. Plaintiffs will apply to the Court for payment in the total amount of Twenty Thousand Dollars (\$20,000), to be distributed in the amount of no more than Five Thousand Dollars (\$5,000) to each of the Plaintiffs (again, "Enhancement Payments"), for their services and responsibilities in prosecuting the Lawsuit. The Enhancement Payments are included in, and will be paid from, the Gross Settlement Amount. Defendants will not oppose such application.

d. Formula for individual PAGA penalties: The amount of Two Hundred Thousand Dollars (\$200,000) is allocated towards penalties pursuant to Labor Code sections 2698, *et seq.* ("PAGA Payment"), of which the LWDA will be paid the amount of One Hundred and Fifty Thousand

1 Dollars (\$150,000) (again, “LWDA Payment”) and the amount of Fifty Thousand Dollars (\$50,000)
2 will be distributed on a *pro rata* Pay Period basis to all PAGA Group Members (*i.e.*, individual
3 recovery depends on each PAGA Group Member’s ratio of his or her Pay Periods relative to the total
4 Pay Periods of all PAGA Group Members) who worked during the PAGA Period, and irrespective of
5 whether he or she is a Settlement Class Member. The PAGA Payment will be included in, and will be
6 paid from, the Gross Settlement Amount.

7 e. Any of the foregoing amounts not awarded by the Court shall be added to the
8 Net Settlement Amount.

9 f. Formula for Individual Settlement Shares: The Net Settlement Amount will be
10 the amount that is available for distribution to Settlement Class Members on a *pro rata* Workweek
11 basis. The Settlement Administrator will determine each Settlement Class Member’s individual
12 Workweeks in accordance with Paragraph 37. The sum of all Settlement Class Members’ individual
13 Workweeks will be the “Total Workweeks.” The Net Settlement Amount will be divided by the Total
14 Workweeks to yield the “Workweek Value.” Each Settlement Class Member’s Individual Settlement
15 Share will be determined by multiplying his or her individual Workweeks by the Workweek Value.

16 52. **No Credit Toward Benefit Plans.** Payments made to Plaintiffs, Settlement Class
17 Members, and PAGA Group Members under this Settlement Agreement shall not be utilized to
18 calculate any additional benefits under any benefit plans to which they may be eligible including, but
19 not limited to, under profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation
20 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that
21 this Settlement Agreement will not affect any rights, contributions, or amounts to which Plaintiffs,
22 Settlement Class Members, and PAGA Group Members may be entitled under any benefit plans.

23 53. **Taxation of Settlement Proceeds.**

24 a. The Parties agree that twenty percent (20%) of each Individual Settlement Share
25 will be considered taxable wages and will be reported as such to each Settlement Class Member on
26 IRS Form W-2. The Parties agree that eighty percent (80%) of each Individual Settlement Share will
27 be considered interest and penalties and will be reported as such to each Settlement Class Member on
28 IRS Form 1099 (if required). The Parties agree that one hundred percent (100%) of each individual

1 PAGA payment will be considered penalties and will be reported as such to each PAGA Group
2 Member on IRS Form 1099 (if required).

3 b. The Settlement Administrator shall calculate and remit to applicable taxing
4 authorities sufficient amounts for the employee and employer taxes. Any funds returned by taxing
5 authorities due to cancellation of any Individual Settlement Payment checks will be transmitted in
6 accordance with Paragraph 61(d), the same as all other residual funds associated with Individual
7 Settlement Payment checks.

8 c. The Settlement Administrator will issue appropriate tax forms to each
9 Settlement Class Member consistent with the foregoing breakdown.

10 d. All Parties represent that they have not received, and shall not rely on, advice
11 or representations from Class Counsel or Defendants' Counsel regarding the tax treatment of payments
12 under federal, state, or local law, and that no representations have been made to them regarding the
13 taxability of any payments under the settlement.

14 e. Class Counsel will be issued IRS Form 1099 for Attorneys' Fees and Costs
15 awarded by the Court. Except as provided herein, each of the Parties shall bear his, her, their, or its
16 own attorneys' fees, costs, and expenses incurred in the prosecution, defense, or settlement of the
17 Lawsuit.

18 f. Plaintiffs will be issued IRS Form 1099 for their Enhancement Payments. The
19 Enhancement Payments payable to Plaintiffs shall be in addition to the Individual Settlement Payments
20 they are contemplated to receive under this Settlement Agreement.

21 54. **Notice Procedure.**

22 a. The Parties shall use CPT Group, Inc. as the Settlement Administrator to
23 distribute the Class Notice, distribute payments under this Settlement Agreement, handle tax reporting,
24 establish and host a dedicated case settlement website, and field questions with a telephonic hotline.

25 b. Defendants will provide the Settlement Administrator with the Class List within
26 twenty-one (21) calendar days following the date of Preliminary Approval. The Class List and any
27 other data provided by Defendants to the Settlement Administrator shall not be provided to Plaintiffs'
28 counsel and shall not otherwise be used by the Settlement Administrator for any purpose other than as

1 permitted by this Settlement Agreement. The Settlement Administrator will use the Class List only for
2 the purposes described herein, and ensure that any other communications with Class Members shall
3 not include the Class Members' Social Security number except for the last four digits.

4 c. The Settlement Administrator shall be responsible for:

5 i. Mailing the Class Notice to Class Members and PAGA Group Members
6 as directed by the Court;

7 ii. Consulting with counsel for the Parties concerning any relevant issue,
8 including (without limitation) the estimated payments to Settlement Class Members and PAGA Group
9 Members;

10 iii. Receiving and processing Workweek Disputes and rejecting untimely
11 or improper Workweek Disputes;

12 iv. Keeping track of Requests for Exclusion, and rejecting untimely or
13 improper Requests for Exclusion;

14 v. Keeping track of Objections;

15 vi. Calculation and distribution of payments in accordance with this
16 Settlement Agreement and the Court's orders;

17 vii. Providing weekly status reports to counsel for the Parties, including: (a)
18 the number of Class Notices mailed; (b) the number of Workweek Disputes received; (c) the number
19 of Objections received; and (d) the number of Requests for Exclusion received;

20 viii. No later than twenty-one (21) calendar days before the Final Approval
21 Hearing, preparing and providing to Class Counsel and Defendants' Counsel, for filing with the Court
22 in support of Plaintiffs' motion for final approval of the settlement, a declaration of due diligence
23 setting forth its compliance with its obligations under this Settlement Agreement;

24 ix. Notifying Defendants' Counsel, within three (3) business days after the
25 Effective Date, of the wiring instructions to fund the Gross Settlement Amount, which must be paid
26 by Defendants in the amounts and in accordance with the deadlines set forth in Paragraph 61(b);

27 x. Issuing the following: IRS Form W-2 to each Settlement Class Member
28 for the wage portion of each Individual Settlement Share, IRS Form 1099 (if required) to each

1 Settlement Class Member for the non-wage portion of each Individual Settlement Share, IRS Form
2 1099 to Plaintiffs for their Enhancement Awards, IRS Form 1099 to Class Counsel for the Attorneys'
3 Fees and Costs award, and IRS Form 1099 to the Settlement Administrator for the Administration
4 Costs; and,

5 xi. Such other tasks as the Parties mutually agree or the Court orders the
6 Settlement Administrator to perform, including responding to questions from Class Members and
7 PAGA Group Members.

8 d. Within ten (10) calendar days of receipt of the Class List, the Settlement
9 Administrator shall mail the Class Notice to all persons shown by Defendants' records to be Class
10 Members, as reflected in the Class List, via first class U.S. mail, using the most current mailing address
11 available after a National Change of Address search. The Class Notice shall state an estimate of each
12 Class Member's respective Individual Settlement Share and the number of Workweeks credited to him
13 or her along with an estimate of each PAGA Group Member's respective individual PAGA payment
14 and the number of Pay Periods credited to him or her.

15 e. Any Class Notice(s) returned to the Settlement Administrator as undelivered
16 within fifteen (15) calendar days of initial mailing and bearing a forwarding address shall be re-mailed
17 by the Settlement Administrator within three (3) business days following receipt of the returned mail.
18 For any such Class Notice returned to the Settlement Administrator without a forwarding address, the
19 Settlement Administrator shall first conduct a National Change of Address search as required for
20 undeliverable notices, followed by a computer/SSN and "skip trace" search to obtain an updated
21 address, and shall promptly re-mail the Class Notice to any newly-found address or addresses. The
22 Settlement Administrator shall also re-mail by first class U.S. mail any such Class Notice returned by
23 the Post Office with a forwarding address. It shall be conclusively presumed that those Class Members
24 whose re-mailed Class Notice is not returned to the Settlement Administrator as undeliverable within
25 five (5) calendar days after re-mailing, received the Class Notice.

26 f. Class Counsel shall provide the Court with a declaration from the Settlement
27 Administrator confirming that the Class Notice was mailed to all Class Members and PAGA Group
28

Members as required by this Settlement Agreement, as well as any additional information Class Counsel deem appropriate to provide to the Court, before the Final Approval Hearing.

55. **Settlement Payments.** Class Members and PAGA Group Members are not required to submit a claim form to receive a settlement payment.

56. **Submission of Workweek Disputes.**

g. If any Settlement Class Member disputes the Workweeks set forth on the Class Notice during the Class Period (“Workweeks Dispute”), the Settlement Class Member may submit documentation supporting his or her position by mail to the Settlement Administrator no later than forty five (45) calendar days from the date the Class Notice is originally mailed by the Settlement Administrator for those Class Members whose original mailing was not returned to the Settlement Administrator, or thirty (30) days from the date of the re-mailing to Class Members whose Class Notice was returned to the Settlement Administrator, whichever is later, (“Response Deadline”). Workweek Disputes not postmarked or confirmed received by the Settlement Administrator on or before the Response Deadline will be considered late and may be summarily rejected by the Settlement Administrator, in consultation with Class Counsel and Defendants’ Counsel.

h. The Settlement Administrator will notify counsel for the Parties of any disputes via email. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Parties and the Settlement Administrator will evaluate the evidence and discuss in good faith how many Workweeks to be credited in conformity with Paragraph 51(f). If the Parties and the Settlement Administrator do not reach agreement, the Court will make the final determination as to how many Workweeks should be credited.

57. **Pro-Rata Increase of Gross Settlement Amount.**

Defendants represent that as of July 1, 2021, there were approximately 38,276 Pay Periods worked by all Class Members during the PAGA Period. If the actual number as of July 1, 2021 is greater by more than ten percent (10%), the Gross Settlement Amount will increase by a proportional amount in excess of a ten percent (10%) grace amount (*e.g.*, if the number of Pay Periods increases by 11%, the Gross Settlement Amount will increase by 1%). However, the Gross Settlement Amount will not be reduced based on Defendants’ estimate of Pay Periods worked by all Class Members.

1 **58. Opt-Out Procedure.**

2 a. Class Members may request to opt out of the class settlement by mailing a
3 written request for exclusion (“Request for Exclusion”) to the Settlement Administrator. To be timely,
4 Requests for Exclusion must be mailed to the Settlement Administrator, postmarked on or before the
5 Response Deadline.

6 b. A Request for Exclusion should: (1) be signed by the Class Member; (2) contain
7 the case name and case number of the Lawsuit; (3) contain the Class Member’s full name, telephone
8 number, and mailing address; and (4) clearly state that the Class Member wants to opt out of the
9 settlement. No specific language is required in the Request for Exclusion provided it is sufficiently clear
10 that the Class Member desires to be excluded from the class settlement. No opt-out request may be
11 made on behalf of more than one Settlement Class Member.

12 c. Upon receipt of any timely Request for Exclusion, the Settlement Administrator
13 shall review the request to verify the information contained therein and confirm that the request
14 complies with the requirements of this Settlement Agreement.

15 d. Any Class Member who fails to submit via first class U.S. mail a timely and
16 valid Request for Exclusion shall be barred from opting out of the settlement. The Settlement
17 Administrator shall not review or consider any Request for Exclusion postmarked after the Response
18 Deadline. Under no circumstances shall the Settlement Administrator have the authority to extend the
19 Response Deadline for Class Members to file a Request for Exclusion, except as ordered by the Court
20 or mutually agreed by the Parties.

21 e. Plaintiffs agree not to request to be excluded from the settlement.

22 f. PAGA Group Members may not opt out of the settlement of the PAGA claim.

23 **59. Defendants’ Right to Cancel.**

24 If more than five percent (5%) of Class Members submit a timely and valid Request for
25 Exclusion, Defendants shall have the sole and absolute discretion to withdraw from this Settlement
26 Agreement within fifteen (15) calendar days after the Response Deadline by providing written notice
27 of such withdrawal to Class Counsel. In the event that Defendants elect to withdraw as set forth in this
28 provision, the withdrawal shall have the same effect as a termination of this Settlement Agreement for

1 failure to satisfy a condition of settlement and shall become null and void and have no further force or
2 effect. If Defendants exercise their option to terminate this settlement, they shall pay all
3 Administration Costs already incurred by the Settlement Administrator.

4 **60. Objections to Settlement.**

5 a. Any Settlement Class Member may object to the settlement by either mailing a
6 written objection to the Settlement Administrator (“Objection”), or appearing at the Final Approval
7 Hearing to discuss the Settlement Class Member’s objection with the Court and the Parties at
8 Settlement Class Member’s own expense. To be timely, written Objections must be mailed to the
9 Settlement Administrator, postmarked on or before the Response Deadline.

10 b. An Objection should: (1) be signed by the Class Member; (2) contain the case
11 name and case number of the Lawsuit; (3) contain the Class Member’s full name, telephone number,
12 and mailing address; (4) clearly state the factual and legal basis for objecting to the settlement; (5)
13 indicate whether the Class Member is represented by counsel and identify said counsel; and (6)
14 indicate whether the Class Member intends to appear at the Final Approval Hearing and seeks to be
15 heard at the Final Approval Hearing. The Settlement Administrator will provide the Parties’ counsel
16 with any Objections received and also attach the Objections as exhibits to its declaration regarding
17 due diligence that will be filed with the Court in advance of the Final Approval Hearing.

18 **61. Settlement Proceeds Distribution Deadlines.**

19 a. Not later than seven (7) calendar days after the Effective Date, the Settlement
20 Administrator shall calculate the Employers’ Share of Payroll Taxes and notify Class Counsel and
21 Defendants’ Counsel of the total amount of the Employers’ Share of Payroll Taxes that Defendants
22 shall pay to the Settlement Administrator in addition to the Gross Settlement Amount

23 b. Defendants shall fund fifty percent (50%) of the Gross Settlement Amount and
24 fifty-percent (50%) of the Employers’ Share of Payroll Taxes within thirty (30) calendar days after the
25 Effective Date, and the other fifty percent (50%) of the Gross Settlement Amount and other fifty-
26 percent (50%) of the Employers’ Share of Payroll Taxes six (6) months plus 30 calendar days after
27 the Effective Date.

28 c. No later than ten (10) calendar days after Defendants fund each installment of

1 the Gross Settlement Amount, the Settlement Administrator shall distribute payments in accordance
2 with this Settlement Agreement and the Court's orders, as follows: (i) one half of the Enhancement
3 Payments to Plaintiffs; (ii) one half of the LWDA Payment to the LWDA; (iii) one half of Individual
4 Settlement Payments to Settlement Class Members and PAGA Group Members; (iv) one half of
5 Attorneys' Fees and Costs to Class Counsel; and (v) one half of Administration Costs to the Settlement
6 Administrator.

7 d. Settlement checks will be valid for a period of one hundred and eighty (180)
8 calendar days from the date of issuance, and after this time period, the checks will be cancelled and
9 the funds associated with such cancelled checks will be transmitted to the Controller of the State of
10 California to be held pursuant to the Unclaimed Property Law, California Civil Code sections 1500,
11 *et seq.*, for the benefit of those Settlement Class Members and PAGA Group Members who did not
12 cash their checks until such time that they are claimed. The Parties agree that this disposition results
13 in no unpaid residue under California Civil Procedure Code section 384, as the entire Net Settlement
14 Amount will be paid out to Settlement Class Members and PAGA Group Members, whether or not
15 they all cash their settlement checks. Defendants will not be required to pay any interest on such
16 amounts.

17 d. The remittance of all Court ordered and approved payments, under this
18 Settlement Agreement, to the Settlement Administrator shall constitute the full and complete discharge
19 of the entire obligation of Defendants under this Settlement Agreement.

20 e. No person shall have any claim against the Settlement Administrator,
21 Defendants, Plaintiffs, Class Counsel, Defendants' Counsel, or any other agent designated by
22 Plaintiffs or Defendants based upon the distribution of payments made in accordance with this
23 Settlement Agreement or further orders of the Court.

24 f. Defendants shall not be obligated to make any payments contemplated by this
25 Settlement Agreement unless and until the Court enters the Final Approval Order and Judgment, and
26 after the Effective Date, and no amounts will be owed or payable until all appeals or other collateral
27 attack have been lapsed or have been favorably resolved in favor of the settlement and no further
28 challenge to the settlement is possible.

1 62. **Binding Effect.**

2 a. Subject to Final Approval, all Settlement Class Members and PAGA Group
3 Members shall be bound by this Settlement Agreement, the contemplated Final Approval Order and
4 Judgment, and the release of Settlement Class Members' Released Claims and PAGA Group
5 Members' Released Claims against the Released Parties.

6 b. Subject to Final Approval, all Class Members, whether or not they submit a
7 request for exclusion from the Settlement Class, employed by Defendant(s) during the PAGA Period
8 (the "PAGA Group Members") will receive a PAGA payment and will no longer be able to seek
9 penalties under the PAGA for PAGA Group Members' Released Claims.

10 c. A copy of the Final Approval Order and Judgment will be available on the
11 Settlement Administrator's website pursuant to Cal. Rules of Court, rule 3.771(b).

12 63. **Provisional Approval of Settlement.** After execution of this Settlement Agreement,
13 Plaintiffs shall file a motion seeking preliminary approval of the settlement. Plaintiffs shall provide
14 Defendants with the preliminary approval motion for review and approval prior to filing. Defendants
15 shall not oppose the motion for preliminary approval of the settlement so long as the motion and
16 supporting papers are consistent with the terms of this Settlement Agreement. By way of the motion,
17 the Court will be requested to enter a Preliminary Approval Order that:

- 18 a. Preliminarily approves this Settlement Agreement;
19 b. Conditionally certifies the Class, for purposes of settlement;
20 c. Preliminarily appoints Plaintiffs as representatives of the Class for settlement
21 purposes;
22 d. Preliminarily appoints Class Counsel as counsel for the Class for settlement
23 purposes;
24 e. Approves and appoints the Settlement Administrator to administer the
25 settlement as required by this Settlement Agreement;
26 f. Approves the form of the Class Notice and requires that it be sent to Class
27 Members and PAGA Group Members by first class U.S. mail;
28 g. Schedules the Final Approval Hearing; and

1 h. Approves the procedure and deadlines for Class Members to submit Requests
2 for Exclusion, Objections, and Workweek Disputes.

3 64. **Non-Interference with Settlement Administration.** The Parties and their counsel
4 agree that they shall not seek to solicit or otherwise encourage Class Members to submit Requests for
5 Exclusion or Objections to the settlement or to appeal from the Final Approval Order and Judgment.

6 65. **Final Approval Order and Judgment.** Plaintiffs shall provide Defendants with the
7 final approval motion of the settlement for review and approval prior to filing. Defendants shall not
8 oppose the motion for final approval of the settlement so long as the motion and supporting papers are
9 consistent with the terms of this Settlement Agreement. Plaintiffs will request, and Defendants will
10 concur in said request, that the Court enter, after the Final Approval Hearing, a Final Approval Order
11 and Judgment drafted by Plaintiffs in the form that is consistent with this Settlement Agreement and
12 subject to prior review and approval by Defendants. Plaintiffs will request that the Final Approval
13 Order and Judgment find that this settlement is fair, just, equitable, reasonable, adequate and in the
14 best interests of Class Members and PAGA Group Members, enter judgment in accordance with
15 California Rules of Court 3.769, and require the Parties to carry out the provisions of this Settlement
16 Agreement.

17 66. **Voiding of Settlement Agreement if Settlement Not Finalized Or for Failure to**
18 **Satisfy Conditions.**

19 a. The Court may award less to Plaintiffs, Class Counsel, Settlement
20 Administrator, and/or the LWDA than is provided for herein, without impacting the validity and
21 enforceability of this Settlement Agreement.

22 b. If for any reason the settlement set forth in this Settlement Agreement is
23 terminated as provided under this Paragraph or Paragraph 59 or does not otherwise become final:

24 i. The settlement shall be null and void and the orders and judgment to be
25 entered pursuant to this Settlement Agreement shall be vacated; and the Parties will be returned to the
26 status quo prior to entering this Settlement Agreement with respect to the Lawsuit, as if the Parties
27 had never entered into this Settlement Agreement.
28

1 ii. The Settlement Agreement and all negotiations, court orders and
2 proceedings relating thereto shall be without prejudice to the rights of any and all Parties hereto, Class
3 Members, and PAGA Group Members, whom shall be restored to their respective positions existing
4 prior to the execution of this Settlement Agreement, and evidence relating to the Settlement Agreement
5 and all negotiations shall not be admissible or discoverable in the litigation and/or Lawsuit or
6 otherwise.

7 iii. Defendants will not have waived, and instead expressly reserve, their
8 rights to demand and/or compel individual arbitration of the alleged claims pursuant to any agreement
9 to arbitrate or challenge the continuing propriety of class certification or representative adjudication
10 for any purpose.

11 iv. Plaintiffs and Class Counsel will not have waived, and instead expressly
12 reserve, their rights to move for collective and/or class certification and seek representative
13 adjudication.

14 v. To the extent one exists, the Preliminary Approval Order shall be
15 vacated in its entirety and neither this Settlement Agreement, the Preliminary Approval Order, nor any
16 other document in any way relating to any of the foregoing, shall be relied upon, referred to, or used
17 in any way for any purpose in connection with any further proceedings in this or any related action,
18 including class certification proceedings.

19 67. **No Publicity.** Plaintiffs and Class Counsel agree not to disclose or publicize the
20 settlement, including the fact of the settlement, its terms or contents, and the negotiations underlying
21 the settlement, in any manner or form, directly or indirectly, to any person or entity, except potential
22 Class Members and as shall be contractually required to effectuate the terms of the settlement.
23 Plaintiffs and Class Counsel agree not to issue press releases, communicate with, or respond to any
24 media or publication entities, publish information in manner or form, whether printed or electronic,
25 on any medium or otherwise communicate, whether by print, video, recording or any other medium,
26 with any person or entity concerning the settlement, including the fact of the settlement, its terms or
27 contents and the negotiations underlying the settlement, except as shall be contractually required to
28 effectuate the terms of the settlement. If the Parties or their counsel are contacted by the press, media

1 or any industry association, they will respond only that the case has been amicably resolved to the
2 parties' mutual satisfaction. This provision will not prevent Plaintiffs or Class Counsel from discussing
3 the allegations in the Lawsuit with Class Members. Nor will this provision limit Class Counsel from
4 including information about the settlement on Class Counsel's websites so long as the information
5 does not identify Defendants, Plaintiffs, and/or the Lawsuit by party name(s) or court case number and
6 is generally limited to "Class and PAGA Representative Action Settlement – \$2,000,000.00." In the
7 event of a proven breach of this no-publicity provision, the breaching party(ies) will be required to
8 pay the prevailing party's reasonable attorneys' fees and costs incurred in enforcing this no-publicity
9 provision (through an action for injunctive relief or otherwise). The Parties acknowledge their
10 intention that the provisions of this no-publicity provision create no liability for disclosures made: (i)
11 prior to Plaintiffs' and Class Counsel's execution of the Memorandum of Understanding; (ii) by
12 persons from information contained within Court filings and the public record; or (iii) as otherwise
13 compelled by operation of law.

14 68. **Notices.** All notices, requests, demands, and other communications required or
15 permitted to be given pursuant to this Settlement Agreement shall be in writing, and shall be delivered
16 by first class U.S. mail as follows:

17 For Plaintiffs and the Class:

18 Anthony J. Orshansky
19 Jennifer L. Connor
20 CounselOne, P.C.
21 9301 Wilshire Boulevard, Suite 650
22 Beverly Hills, California 90210

23 Keith A. Custis
24 Custis Law, P.C.
25 1999 Avenue of the Stars, Suite 1100
26 Los Angeles, California 90067

27 For Defendants:

28 Mark J. Jacobs
Ryan D. Wheeler
Fisher Phillips LLP
2050 Main Street, Suite 1000
Irvine, California 92614

Matthew B. Golper
Ballard Rosenberg Golper & Savitt, LLP
15760 Ventura Boulevard, 18th Floor
Encino, CA 92626

69. **Modification in Writing.** This Settlement Agreement may be altered, amended, modified or waived, in whole or in part, only in a writing signed by counsel for the Parties and approved by the Court. This Settlement Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

70. **Ongoing Cooperation.** Plaintiffs and Defendants and their respective counsel shall execute all documents and perform all acts necessary and proper to effectuate the terms of this Settlement Agreement. The executing of documents must take place prior to the Final Approval Hearing.

71. **Binding on Successors.** This Settlement Agreement shall be binding and shall inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs, and legal representatives.

72. **Entire Agreement.** This Settlement Agreement constitutes the full, complete, and entire understanding, agreement, and arrangement between the Parties with respect to the settlement of the Lawsuit and Release of Claims. This Settlement Agreement supersedes any and all prior oral or written understandings, agreements, and arrangements between the Parties with respect to the settlement of the Lawsuit and Release of Claims. Except as to those set forth and included expressly in this Settlement Agreement, there are no other agreements, covenants, promises, representations, or arrangements between the Parties with respect to the settlement of the Lawsuit.

73. **Execution in Counterparts.** This Settlement Agreement may be signed in one or more counterparts and electronic signatures are acceptable. All executed copies of this Settlement Agreement, and photocopies thereof (including facsimile copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

74. **Captions.** The captions and section numbers in this Settlement Agreement are inserted for the reader's convenience and in no way define, limit, construe, or describe the scope or intent of the provisions of this Settlement Agreement.

1 75. **Governing Law.** This Settlement Agreement shall be interpreted, construed, enforced,
2 and administered in accordance with the laws of the State of California, without regard to conflict of
3 law rules.

4 76. **Reservation of Jurisdiction.** Notwithstanding entry and filing of the Final Approval
5 Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting and enforcing the
6 terms of this Settlement Agreement.

7 77. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms
8 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement shall not be
9 construed more strictly against one Party than another merely by virtue of the fact that it may have
10 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
11 negotiations between the Parties, all Parties have contributed to the preparation of this Settlement
12 Agreement.

13 78. **Representation by Counsel.** The Parties acknowledge that they have been represented
14 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement and
15 that this Settlement Agreement has been executed with the consent and advice of counsel. Further,
16 Plaintiffs and Class Counsel warrant and represent, to their knowledge, that there are no liens on this
17 Settlement Agreement.

18 79. **Warranties and Representations.** With respect to themselves, each of the Parties to
19 this Settlement Agreement and/or their agents or counsel represent, covenant, and warrant that (a) they
20 have full power and authority to enter into and consummate all transactions contemplated by this
21 Settlement Agreement and have duly authorized the execution, delivery, and performance of this
22 Settlement Agreement and (b) the person executing this Settlement Agreement has the full right,
23 power, and authority to enter into this Settlement Agreement on behalf of the Party for whom he/she
24 has executed this Settlement Agreement, and the full right, power, and authority to execute any and

25 //

26 //

27 //

28 //

all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Settlement Agreement.

IT IS SO AGREED:

Dated: 04 / 13 / 2022, 2022

G.M.
Plaintiff Giovanni Mitchell

Dated: _____, 2022

Plaintiff Ammon Mendes

Dated: _____, 2022

Plaintiff Mackenzie Hernandez

Dated: _____, 2022

Plaintiff Elora Dorn

Dated: _____, 2022

Name: _____
Title: _____

On Behalf of Defendant The Madera Group LLC

Dated: _____, 2022

Name: _____
Title: _____

On Behalf of Defendant Tocaya Organica, LLC

Dated: _____, 2022

Name: _____
Title: _____

On Behalf of Defendant Tocaya Management LLC

all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Settlement Agreement.

IT IS SO AGREED:

Dated: _____, 2022

Plaintiff Giovanni Mitchell

Dated: 4/13/2022, 2022

Plaintiff Ammon Mendes

Dated: _____, 2022

Plaintiff Mackenzie Hernandez

Dated: _____, 2022

Plaintiff Elora Dorn

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant The Madera Group LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Organica, LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Management LLC

all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Settlement Agreement.

IT IS SO AGREED:

Dated: _____, 2022

Plaintiff Giovanni Mitchell

Dated: _____, 2022

Plaintiff Ammon Mendes

Dated: 4/13/2022, 2022

Plaintiff Mackenzie Hernandez

Dated: _____, 2022

Plaintiff Elora Dorn

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant The Madera Group LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Organica, LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Management LLC

all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Settlement Agreement.

IT IS SO AGREED:

Dated: _____, 2022

Plaintiff Giovanni Mitchell

Dated: _____, 2022

Plaintiff Ammon Mendes

Dated: _____, 2022

Plaintiff Mackenzie Hernandez

Dated: 4/13/2022, 2022

DocuSigned by:

 Plaintiff Elora Dorn

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant The Madera Group LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Organica, LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Management LLC

all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Settlement Agreement.

IT IS SO AGREED:

Dated: _____, 2022

Plaintiff Giovanni Mitchell

Dated: _____, 2022

Plaintiff Ammon Mendes

Dated: _____, 2022

Plaintiff Mackenzie Hernandez

Dated: _____, 2022

Plaintiff Elora Dorn

Dated: Apr 21, 2022, 2022



Name: Matthew Syken

Title: Executive Officer

On Behalf of Defendant The Madera Group LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Organica, LLC

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant Tocaya Management LLC

all necessary instruments in connection herewith, and to fully bind such Party to the terms and obligations of this Settlement Agreement.

IT IS SO AGREED:

Dated: _____, 2022

Plaintiff Giovanni Mitchell

Dated: _____, 2022

Plaintiff Ammon Mendes

Dated: _____, 2022

Plaintiff Mackenzie Hernandez

Dated: _____, 2022

Plaintiff Elora Dorn

Dated: _____, 2022

Name: _____

Title: _____

On Behalf of Defendant The Madera Group LLC

Dated: Apr 27, 2022 _____, 2022

Harald Herrmann (Apr 27, 2022 14:18 PDT)

Name: Harald Herrmann

Title: CEO

On Behalf of Defendant Tocaya Organica, LLC

Dated: Apr 27, 2022 _____, 2022

Harald Herrmann (Apr 27, 2022 14:18 PDT)

Name: Harald Herrmann

Title: CEO

On Behalf of Defendant Tocaya Management LLC

1 Dated: Apr 21, 2022, 2022



Name: Matthew Syken

Title: Executive Officer

On Behalf of Defendant Toca Madera Weho LLC

6 Dated: Apr 21, 2022, 2022



Name: Matthew Syken

Title: Executive Officer

On Behalf of Defendant Toca Madera Management
LLC

X

11 Dated: Apr 21, 2022, 2022



Name: Matthew Syken

Title: Executive Officer

On Behalf of Defendant Noble 33 Management, LLC

14 **APPROVED AS TO FORM:**

16 Dated: _____, 2022

Anthony J. Orshansky
Jennifer L. Connor
CounselOne, PC
Attorneys for Plaintiffs

21 Dated: _____, 2022

Keith A. Custis
Custis Law P.C.
Attorneys for Plaintiffs

24 Dated: April 27, 2022



Mark J. Jacobs
Ryan D. Wheeler
Fisher Phillips LLP
Attorneys for Defendants

1 Dated: _____, 2022

2 Name: _____

3 Title: _____

4 On Behalf of Defendant Toca Madera Weho LLC

5
6 Dated: _____, 2022

7 Name: _____

8 Title: _____

9 On Behalf of Defendant Toca Madera Management
10 LLC

11 Dated: _____, 2022

12 Name: _____

13 Title: _____

14 On Behalf of Defendant Noble 33 Management, LLC

15 **APPROVED AS TO FORM:**

16 Dated: April 13, 2022

17 Anthony J. Orshansky

18 Anthony J. Orshansky

19 Jennifer L. Connor

20 CounselOne, PC

21 Attorneys for Plaintiffs

22 Dated: April 13, 2022

23 Keith A. Custis

24 Keith A. Custis

25 Custis Law P.C.

26 Attorneys for Plaintiffs

27 Dated: _____, 2022

28 _____

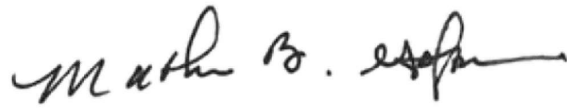
Mark J. Jacobs

Ryan D. Wheeler

Fisher Phillips LLP

Attorneys for Defendants

1 Dated: April 27, 2022



Matthew B. Golper
Ballard Rosenberg Golper & Savitt, LLP
Attorneys for Defendants

Exhibit 1

NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

Mitchell, Hernandez, Dorn, and Mendes, et al. v. The Madera Group LLC, Tocaya Management LLC, Tocaya Organica LLC, Toca Madera Management LLC, and Noble 33 Management LLC
 Los Angeles County Superior Court, Case No. 20STCV24075 (“Lawsuit”)

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendants’ records indicate that you are eligible to take part in the class and representative action settlement reached in this case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement.

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

By order of the Superior Court of California for the County of Los Angeles (“Court”), you are notified that: preliminary approval of a class and representative action settlement filed by former employees (“Plaintiffs”) and defendants Tocaya Management LLC, Tocaya Organica LLC, Toca Madera Management LLC, The Madera Group LLC, and Noble 33 Management LLC (collectively, “Defendants”), was granted on [REDACTED], 2022, which may affect your legal rights. Defendants own and/or operate Tocaya Organica and Toca Madera restaurants.

As a Class Member (or member of the Class), you are eligible to receive an individual settlement payment. You need not take any action to receive a settlement payment under the settlement, but you have the opportunity to request exclusion from the class settlement (in which case you will not receive payment under the class settlement), object to the class settlement, and/or dispute the number of workweeks credited to you, if you so choose, as explained more fully below.

I. IMPORTANT DEFINITIONS

“**Class**” means all current and former non-exempt employees who worked for Defendants Tocaya Management LLC, Tocaya Organica LLC, Toca Madera Management LLC, The Madera Group LLC, and Noble 33 Management LLC, and/or their predecessor or merged entities, at Tocaya Organica and/or Toca Madera Restaurants within the State of California during the Class Period.

“**Class Member**” means a member of the Class.

“**Class Period**” means the period beginning on April 6, 2016 and ending on February 15, 2022.

“**PAGA Group Member**” means all Class Members who worked for Defendants at any time during the PAGA Period.

“**PAGA Period**” means the period beginning on March 6, 2019 and ending on February 15, 2022.

“**Settlement Class Members**” means Class Members who do not exercise their right to request exclusion from the class settlement. Class Members who request exclusion (explained below) retain their right to sue Defendants, if they choose, but will not receive payment under the class settlement.

II. BACKGROUND OF THE ACTION

The settlement involves claims against Defendants alleging claims for: (a) failure to pay all minimum, regular, overtime or double time wages; (b) failure to provide compliant duty-free meal periods and/or pay premiums owed thereon; (c) failure to provide compliant duty-free rest breaks and/or pay premiums owed thereon; (d) failure to pay split shift pay / split shift premiums; (e) failure to provide reporting time pay; (f) failure to furnish accurate itemized wage statements; (g) failure to maintain and keep accurate records; (h) failure to reimburse all necessary business expenses incurred; (i) failure to pay all wages owed timely during employment and upon separation of employment; (j) engaging in unfair and unlawful business practices; and (k) violation of California’s Private Attorneys General Act of 2004 (“PAGA”).

Defendants deny all of the allegations in the Lawsuit or that they violated any law, and contend that they have at all times fully complied with all applicable federal, state, and local laws. Defendants deny all liability and is confident it has strong legal and factual defenses to these claims. After extensive investigation and analysis of the legal and factual issues and risks,

the parties participated in a full-day mediation before the Honorable Peter D. Lichtman (Ret.) of Signature Resolution, which did not initially result in a settlement. Thereafter, the parties participated in additional mediation sessions before Paul Grossman, Esq. of Paul Hastings LLP, and as a result, the parties reached a settlement. The parties have since entered into the Stipulation of Class and Representative Action Settlement (“Settlement Agreement”), which was preliminarily approved by the Court on [REDACTED], 2022. The Court has appointed CPT Group, Inc. as the administrator of the settlement (“Settlement Administrator”), Plaintiffs, as representative of the Class (“Class Representatives”), and the following law firms as counsel for the Class (“Class Counsel”):

Anthony J. Orshansky
Jennifer L. Connor
CounselOne, P.C.
9301 Wilshire Blvd., Suite 650
Beverly Hills, California 90210
Telephone: (310) 277-9945
Facsimile: (424) 277-3727

Keith A. Custis
Custis Law, P.C.
1999 Avenue of the Stars, Suite 1100
Los Angeles, California 90067
Telephone: (213) 863-4276
Facsimile: (213) 863-4277

The Court has not ruled on the merits of Plaintiffs’ claims or Defendants’ defenses. The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendants that the claims in the action have merit or that Defendants have any liability to Plaintiffs, Class Members, or to PAGA Group Members. Plaintiffs and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of Class Members and PAGA Group Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Terms

The total settlement amount is Two Million Dollars (\$2,000,000) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members who do not opt out of the class settlement (“Settlement Class Members”) is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount of up to 35 percent (35%) of the Gross Settlement Amount and reimbursement of litigation costs and expenses in an amount of up to thirty five thousand dollars (\$35,000) to Class Counsel (together, “Attorneys’ Fees and Costs”); (2) enhancement payments to the four Class Representatives in a total amount not to exceed twenty thousand dollars (\$20,000) for their services and responsibilities in prosecuting the action (“Enhancement Payments”); (3) settlement administration costs in an amount not to exceed sixty thousand dollars (\$60,000) to the Settlement Administrator (“Administration Costs”); and (4) the allocation of two hundred thousand dollars (\$200,000) to settle all claims under the California Private Attorneys General Act (“PAGA”) (the “PAGA Payment” or “PAGA Settlement”), of which 75%, or \$150,000, will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25%, or \$50,000, will be paid to all PAGA Group Members on a *pro rata* pay period basis.

B. Distribution Formulas

Each Settlement Class Member is eligible to receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of workweeks he or she worked for Defendants in the State of California as a non-exempt employee during the Class Period. Specifically, the Net Settlement Amount will be divided by the total of all workweeks of Settlement Class Members during the Class Period in order to establish the value of each workweek. The Individual Settlement Share of each Settlement Class Member will be calculated by multiplying the value of a workweek by the number of workweeks worked by the Settlement Class Member during the Class Period.

Each PAGA Group Member will receive a *pro rata* share of 25% of the PAGA Payment based on the number of pay periods he or she worked for Defendants in the State of California as a non-exempt employee during the PAGA Period irrespective

of whether he or she is a Settlement Class Member. Specifically, 25% of the PAGA Payment (or \$50,000) will be divided by the total of all pay periods worked by all PAGA Group Members during the PAGA Period in order to establish the value of each pay period worked. The individual PAGA payment of each PAGA Group Member will be calculated by multiplying the value of a pay period by the number of pay periods worked by the PAGA Group Member during the PAGA Period.

Each Individual Settlement Share will be allocated twenty percent (20%) to wages (which will be reported on an IRS Form W2), and eighty percent (80%) to interest, penalties, and other non-wage damages (which will be reported on an IRS Form 1099, if applicable). Individual PAGA payments will be allocated as one hundred percent (100%) penalties (which will be reported on IRS Form 1099, if applicable). Each Individual Settlement Share will be subject to reduction for the employee's share of taxes and withholdings with respect to the wage portion of the Individual Settlement Share. The net payment of each Settlement Class Member's Individual Settlement Share (after reduction for the employee's share of taxes on the wage portion) and individual PAGA payment (if applicable) is referred to as their "Individual Settlement Payment."

As the settlement provides for Defendants to make payments in two installments, the Settlement Administrator will send one half of the amount of each Individual Settlement Payment to the address on file with the Settlement Administrator by way of one (1) check within ten (10) days from the date of funding by Defendants on each installment. The two installment payments will be funded by Defendants as follows: (a) installment 1 within 30 calendar days after the Effective Date, and (b) installment 2 within 6 months plus 30 calendar days after the Effective Date. The "Effective Date" will be one (1) calendar day after either (a) if no objections are timely filed, the final approval date; (b) if objections are filed but no appeal is filed, the expiration date of the time for filing notice of any appeal from final approval date; or (c) if an appeal is filed, the latest of (i) the date of final affirmance of an appeal of that Final Approval Order, (ii) the expiration of the time for a petition for review or writ of certiorari with respect to the Final Approval Order and, if review or certiorari is granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on review or certiorari with respect to the Final Approval Order that has the effect of confirming the Final Approval Order.

If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payments that you may be entitled to. The Settlement Administrator's contact information is set forth in Section IV.B of this Notice.

C. Your Workweeks and Pay Periods Based on Defendants' Records

According to Defendants' records:

During the Class Period you worked for Defendants as a non-exempt employee in California for <<Workweeks>> workweeks.

During the PAGA Period you worked for Defendants as a non-exempt employee in California for <<PAGAPayPeriods>> pay periods.

If you wish to dispute the number of workweeks credited to you, you must submit a written letter to the Settlement Administrator. The written dispute must: (a) contain the case name and number; (b) be signed by you; (c) contain your full name, address, telephone number, and the last four digits of your Social Security number; (d) clearly state that you dispute the number of workweeks credited to you and what you contend is the correct number to be credited to you; (e) include information and/or attach documentation demonstrating that the number of workweeks that you contend should be credited to you is correct; and (f) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **on or before [redacted], 2022 [45 Days After Mailing].**

D. Your Estimated Settlement Award

As explained above, your estimated settlement award is based on the number of workweeks and pay periods credited to you during the applicable periods.

Under the terms of the settlement, your Individual Settlement Share is estimated to be \$<<IndAmt>> and your individual PAGA payment (if applicable) is estimated to be \$<<PAGAAmt>>. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholding with respect to the wage portion of the Individual Settlement Share.

Individual Settlement Payments will only be distributed if the Court grants final approval to the settlement.

E. Released Claims

Upon the Effective Date, Plaintiff and all Class Members who did not submit valid requests for exclusion from the settlement (the Settlement Class Members), for the period from April 6, 2016 and ending on February 15, 2022, will release and forever discharge Defendants, and their former and present parents, officers, directors, shareholders, employees, agents, attorneys, subsidiaries, divisions, assigns, predecessors, successors, insurers, and all of their respective successors, subsidiaries, assigns, or legal representatives, including but not limited to all Defendants, One Table Restaurant Brands, Inc., Tocaya Holdings LLC, New Tocaya Holdings LLC, Tocaya Palisades LLC, Tocaya Santa Monica LLC, Tocaya SD LLC, Tocaya South Bay LLC, Tocaya Sportsman LLC, Tocaya Sunset LLC, Tocaya Toluca LLC, Tocaya Venice LLC, Noble 33 Holdings LLC, Tosh Berman, Amrou Almanaseer, and Michael Tanha (the Released Parties), from the Settlement Class Members Released Claims during the Class Period. The “Settlement Class Members Released Claims” are all liabilities, causes of action and and/or claims that were alleged or that could have been alleged based on the facts asserted in the First Amended Class and Representative Action Complaint filed by Plaintiffs in the Lawsuit arising at any time during the Class Period including, but not limited to, all of the following claims for relief: (1) failure to pay minimum, regular, overtime, or double time wages, and failure to pay other wages of any kind; (2) failure to pay split shift pay / split shift premiums; (3) failure to provide reporting-time pay; (4) failure to authorize and permit rest periods or pay all rest period premium pay; (5) failure to provide meal periods or pay all meal period premium pay; (6) failure to provide accurate and itemized wage statements; (7) failure to pay all wages timely; (8) failure to pay final wages due at separation; (9) failure to reimburse or indemnify all necessary business expenses; (10) failure to maintain records in violation of Labor Code section 1174(d); (11) claims brought under Business & Professions Code sections 17200, *et seq.*, including, but not limited to, all claims for unfair, unlawful and harmful conduct to Settlement Class Members, the general public, and Defendants’ competitors, and claims of unlawfully gaining an unfair advantage over other businesses; and (12) any claims for statutory penalties, interest and attorneys’ fees and costs arising out of the facts asserted in the First Amended Class and Representative Action Complaint and the aforementioned causes of action. This release excludes the release of claims not permitted by law.

Notwithstanding the foregoing, upon the Effective Date, all Class Members employed by Defendants during the PAGA Period (the “PAGA Group Members”), whether or not they submit a request for exclusion from the settlement, will receive a PAGA payment and will release the Released Parties from the PAGA Group Members’ Released Claims during the PAGA Period. The “PAGA Group Members’ Released Claims” are all liability, causes of action and and/or claims for civil penalties arising or accruing under the PAGA during the PAGA Period that were alleged or reasonably could have been alleged based on the facts alleged in the First Amended Class and Representative Action Complaint filed by Plaintiffs in the Lawsuit including, but not limited to, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12 *et seq.*, 1194, 1194.2, 1197, 1198.1, 1198, 2800, and 2802 and any applicable Wage Order(s). The PAGA Group Members shall further release the Released Parties from any claims and/or liability for interest and all attorneys’ fees and costs available under the PAGA arising out of the facts asserted in the First Amended Class and Representative Action Complaint for the aforementioned Labor Code violations.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS? HOW DO YOU RECEIVE MONEY FROM THIS SETTLEMENT?**A. Participate in the Settlement**

If you want to receive money from the settlement, you do not have to do anything. If you do nothing, you will automatically be issued your Individual Settlement Payment. You will also be deemed to have released the Released Parties for the Released Claims, pursuant to Section III.D above.

As a Settlement Class Member, you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Settlement

If you **do not** wish to participate in the class settlement, you may seek exclusion from (or “opt out” of) the class settlement by submitting a timely, written request for exclusion from the class settlement to the Settlement Administrator at the following address:

The Madera Group LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park

Irvine, California 92606
 Telephone: 1(xxx) xxx-xxxx

The request for exclusion should: (a) include your name, address, and telephone number; (b) include the case name and number; (c) include a clear and unequivocal statement that you wish to be excluded from the class settlement; (d) include your signature; and (e) be mailed to the Settlement Administrator at the address listed above, postmarked **no later than** [redacted], **2022 [45 Days After Mailing]**. No specific language is required in the Request for Exclusion provided it is sufficiently clear that the Class Member desires to be excluded from the class settlement.

If the Court grants final approval of the settlement, any Class Member who submits a timely and valid request for exclusion from the class settlement will not be entitled to receive any payment from the class settlement, will not be bound by the class settlement, and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid request for exclusion from the class settlement will be deemed Settlement Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties from the PAGA Group Members' Released Claims (defined above).

If you are a current employee, your decision as to whether or not to be excluded from the settlement will not affect your employment.

C. Object to the Settlement

You can object to the terms of the class settlement as long as you have not requested exclusion from the class settlement. To object to the class settlement, you should provide to the Settlement Administrator a timely written statement of the objection. The written objection should: (a) contain your full name, address, telephone number, and signature; (b) contain the case name and number; (c) contain a statement of the specific legal and factual basis for each objection argument; (d) contain a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel; and (e) be filed or postmarked **no later than** [redacted], **2022 [45 Days After Mailing]**. However, any Settlement Class Member may object to the class settlement by appearing at the Final Approval Hearing to discuss his or her objection with the Court and the parties at Settlement Class Member's own expense. You may not object to the PAGA Settlement.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 58 of the Los Angeles County Superior Court, located at 111 North Hill St., Los Angeles, California 90012, [redacted], **2022, at [redacted] a.m./p.m.**, to determine whether the settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees and costs to Class Counsel, Enhancement Payments to the Class Representatives, and Administration Costs to the Settlement Administrator should be awarded.

The hearing may be continued without further notice. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to at your expense. Information about how to appear remotely at the Final Approval Hearing—by telephone or video—and the Court's social distancing requirements will be available on the Settlement Administrator's website at: www.xxxxxxxxxxxx.com.

VI. ADDITIONAL INFORMATION

This Notice summarizes the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review a complete copy of the Stipulation of Class and Representative Action Settlement and other settlement-related documents on the Settlement Administrator's website at: www.xxxxxxxxxxxx.com.

You may also view the Settlement Agreement and other court records in the action for a fee by visiting the civil clerk's office, located at 111 North Hill St., Los Angeles, California 90012, during business hours.

PLEASE DO NOT CONTACT THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION

REGARDING THIS SETTLEMENT. NOTICE OF THE FINAL APPROVAL ORDER AND JUDGMENT WILL BE POSTED ON SETTLEMENT ADMINISTRATOR'S WEBSITE AT www.xxxxxxxxxxxxxx.com.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: 1(xxx) xxx-xxxx OR VISIT www.xxxxxxxxxxxxxx.com.