

ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
LIANE KATZENSTEIN LY, Esq., (SBN 259230)
liane@kingsleykingsley.com
KINGSLEY & KINGSLEY, APC
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
(818) 990-8300, Fax (818) 990-2903

Attorneys for Plaintiff and Certified Class

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

JESUS A. RIOS an individual, on behalf of
himself and others similarly situated,

PLAINTIFF,

v.

ALL STAR SEED; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. ECU08770

[Case Assigned for All Purposes to Hon.
Jeffrey B. Jones in Dept. 07]

**DECLARATION OF LIANE
KATZENSTEIN LY IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

*[Filed concurrently with Motion for
Preliminary Approval of Settlement and
[Proposed] Order Thereon]*

Date: May 8, 2020

Time: 8:30 a.m.

Dept.: 07

Complaint Filed: June 18, 2015

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I, Liane Katzenstein Ly, state and declare as follows:

1. I am an attorney admitted before all courts of the State of California and a partner in the law firm of Kingsley & Kingsley, APC, counsel of record for Plaintiffs in this action. I am completely familiar with the present litigation, including the pleadings, discovery, and filings submitted in this matter. I make this Declaration from my own personal knowledge, and, if called upon, I could and would competently testify to the following.

2. I graduated from Florida State University in 2005 with a degree in English. I graduated from University of California, Davis School of Law in 2008. I am admitted to practice before the following Courts: United States District Court, Northern, Southern, Eastern, and Central of California; all of California State Courts.

3. I make this Declaration in support of Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement in the above-captioned case.

RELEVANT PROCEDURAL HISTORY

4. Plaintiff filed this class action case on July 18, 2015 alleging the following: (1) Failure to Pay Wages and/or Overtime under Labor Code §§ 510, 1194, and 1199; (2) Violation of Labor Code § 226(a); (3) Penalties pursuant to Labor Code §203; and (4) Violation of Business & Professions Code § 17200. Plaintiff subsequently filed a First Amended Complaint on July 28, 2015 adding a cause of action for penalties pursuant to the Private Attorney General Act of 2007 (“PAGA”) (Lab. Code § 2699 et seq.). Defendant filed an Answer on October 7, 2015.

5. On October 19, 2016, the Parties filed a stipulation permitting Plaintiff to file a Second Amended Complaint adding a cause of action for failure to provide meal periods. The Court granted this Stipulation on October 25, 2016. The Second Amended Complaint is the operative complaint.

6. Both Parties have vigorously litigated this Action. Plaintiff has had to compel Defendant to produce documents using this Court's resources on many occasions. The Parties stipulated to move Plaintiff's Motion for Class Certification several times. Plaintiff deposed

1 Defendant's PMK, Cinthia Perez, on March 14, 2017.

2 7. Plaintiff successfully filed its Motion for Class Certification on November 9,
3 2017. This Court granted Plaintiff's Motion on May 17, 2018.

4 8. After certifying the classes, Plaintiff and Defendant prepared and provided Notice
5 to Class Members on September 27, 2018. On November 26, 2018, the Parties received the
6 finalized non-opt out list comprised of 408 class members.

7 9. Plaintiff served class discovery on December 26, 2018, on Defendant. After
8 continuous meet and confer efforts, Defendant ultimately provided Plaintiff the pay and time
9 date for the 408 class members.

10 10. Plaintiff deposed Defendant's PMK Timothy Castelli on June 28, 2019.

11 11. The Parties had previously reached a settlement in this case on the eve of trial,
12 however, Defendant failed to sign the agreement.

13 12. The case was re-scheduled for trial for March 11, 2020. The Parties reached an
14 agreement and signed the Joint Stipulation of Class Action on the first day of trial.

15 **THE CERTIFIED SETTLEMENT CLASS**

16 13. Defendant engages in the practice of processing and manufacturing forage
17 products. It currently operates in two locations, Silsbee and Imperial.

18 14. Since the inception of this lawsuit, Plaintiff alleges that Defendant failed to
19 maintain any written meal period policy.

20 15. Additionally, Plaintiff alleges that Defendant controlled the timing and length of
21 all meal periods and rounded all meal periods of less than thirty minutes to thirty minutes.

22 16. As a result, Plaintiff alleges that he and the Class are owed meal period penalties
23 for late meal periods and wages/overtime for the rounded meal periods.

24 17. On May 17, 2018, this Court granted Plaintiff's Motion, certifying the First Meal
25 Period Subclass and the Meal Auto-Deduct Subclass, defined as follows:

26 **Meal Period Subclass:** All individuals who have been employed, or are currently
27 employed, by Defendant All Star Seed as "hourly employees" or similar titles, from July
28 28, 2011 to November 26, 2018, who worked a shift of five (5) hours or longer and were
not provided with a duty-free meal period of at least thirty (30) minutes.

1 **Meal Auto-Deduct Subclass:** All individuals who have been employed, or are currently
2 employed, by Defendant All Star Seed as “hourly employees” or similar titles, from July
3 28, 2011 to November 26, 2018, who clocked in and out for a meal period that was less
4 than thirty (30) minutes in length but who had thirty (30) minutes or more of time
5 deducted from their time.

6 18. For purpose of the Settlement, the Class Members are consolidated and defined as
7 “all individuals who have been employed, or are currently employed, by Defendant All Star Seed
8 as ‘hourly employees’ or similar titles, from July 28, 2014 to June 30, 2018 who were mailed
9 class notice and did not opt out.”

10 19. The number of Class Members is 408 and include the employees who were
11 mailed Class Notice in September 2018 and who did not opt out of the certified class action.

12 **THE DISCOVERY PROCESS**

13 20. The Parties have conducted significant investigation of the facts and law.

14 21. Such discovery and investigation included interviews with the Class
15 Representative and other percipient witnesses as well as the review of documents and data
16 necessary to calculate potential damages.

17 22. Defendant produced all time and pay data for the vast majority of the Certified
18 Class Members and all policy documents utilized during the Class Period.

19 23. Additionally, Plaintiff deposed two corporate representatives.

20 24. This case settled on the eve of trial after Class Counsel had the time and pay data
21 analyzed by an expert who was prepared to testify at trial.

22 25. Counsel for the Parties investigated the law as applied to the facts discovered
23 regarding the alleged claims of the Class Members and potential defenses thereto, and the
24 damages claimed by the Class Members.

25 26. Careful review and analysis of this confirmatory discovery confirmed that
26 Plaintiff’s Counsel believes the proposed Settlement is adequate, fair, and reasonable, and is
27 appropriate for approval by the Court.

28 **THE PROPOSED SETTLEMENT**

 27. Defendant has raised significant financial constraints that it alleges making pay
this Settlement, or a judgment of more than this amount, very difficult.

28. Defendant provided financial documents to Plaintiff and Plaintiff had them analyzed by an accountant.

KULLAR ANALYSIS

29. Class Counsel conducted extensive informal discovery before entering into meaningful settlement negotiations in this matter. This discovery permitted Class Counsel to fairly evaluate the strength of the case and the risks associated with ongoing litigation.

30. Class Counsel is experienced in handling wage and hour class actions and supports this Settlement.

a) The Risks Associated with the Meal Break Claim

31. Plaintiff alleges that Defendant is responsible for setting the times for which hourly employees take their meal periods and that Defendant failed to maintain any written meal period policy.

32. Here, Defendant created a uniform policy that did not authorize and permit employees to take meal periods pursuant to the Labor Code.

33. Instead, Defendant failed to provide a written meal period policy to its employees entirely.

34. It continues to lack a written meal period policy to this date.

35. It alleges that it maintained an oral policy that required employees to take meal periods before the end of the fifth hour of work. However, meal periods for all hourly employees were scheduled by a supervisor and were “late” over 70% of the time.

36. Thus, Defendant retained full control over authorizing and permitting meal breaks.

37. This practice clearly shows that Defendant failed to maintain a lawful meal period policy and practice for its hourly employees and is thus liable.

38. The time records produced by Defendant indicate that hourly employees clocked back in for lunch one after the other. Defendant's PMK admitted that hourly employees had to wait "in line" to clock back in for lunch.

39. Although Plaintiff certified the meal period class, it cannot be ignored that there

1 are significant risks associated with moving forward.

2 40. Most importantly, Plaintiff has to acknowledge that the Court might find that
3 Defendant did in fact maintain an accurate oral meal period policy.

4 41. As Plaintiff's analysis of the data above may suggest, the extent to which
5 Defendant actually "provided" employees with lawful breaks according to its policy would be
6 highly disputed were the case to have continued, a considerable discount from the maximum
7 settlement value of this claim was required.

8 42. Plaintiff and the other Class Members were subjected to Defendant's unlawful
9 policy of automatically deducting thirty minutes for a meal period even when an employee's
10 punch showed that her or she took considerably less than thirty minutes.

11 43. All Star maintained an unlawful rounding policy that essentially resulted in wage
12 theft from its hourly employees.

13 44. Plaintiff believes he will be able to establish that Defendant maintained a policy
14 in which it automatically deducted thirty minutes for a meal period even when an employee's
15 actual punches showed that he or she took considerably less than thirty minutes.

16 45. Defendant had knowledge that employees were clocking in early from their
17 breaks and going back to work. A review of its own time records reveal this.

18 b) The Risks Associated with Plaintiff's Waiting Time Claim

19 46. Although Class Counsel believes it had a good chance of succeeding on the above
20 claims, the bulk of potential damages in this matter stemmed from Plaintiff's claims for
21 penalties, which might apply if Plaintiff and the Class prevailed on their wage claims.

22 47. Defendant may have been able to establish that its alleged failure to provide the
23 proper compensation was not "willful."

24 c) The Risks Associated with Plaintiff's PAGA Claim

25 48. Defendant maintains that imposing a civil penalty of \$250 per wages statement
26 for a purely technical violation with no real harm would be unjust.

27 49. There is a high risk that the Court would significantly reduce the PAGA claim in
28 the interest of justice, so Class Counsel felt a deep discount of the value of the PAGA claim was

1 warranted.

2 50. Even though the Court granted class certification on November 9, 2017, trial of a
3 case involving over 405 Class Members would require extensive litigation costs, and a
4 significant time overlay by the parties.

5 51. Given the complexity and unsettled nature of the issues, it is likely that any
6 outcome at trial would have resulted in a lengthy and costly appeal, further delaying any relief to
7 the class.

8 52. Furthermore, Defendant maintained that it would not be able to withstand a
9 judgment of over \$1,000,000.00.

10 53. After having an accountant review financial documents, including profit and loss
11 sheets, Plaintiff agrees.

12 54. There is a real risk of bankruptcy or failure to pay if the Settlement or a Judgment
13 at trial is too large.

14 55. Plaintiff does not feel that decertification was likely given that this case settled on
15 the first day of trial.

16 56. It was very difficult for the Parties to reach this Settlement.

17 57. This case settled on the eve of trial after Class Counsel had the time and pay data
18 analyzed by an expert who was prepared to testify at trial.

19 58. Plaintiff's Expert calculated damages using data provided by Defendant.

20 59. Plaintiff's expert calculated damages for unpaid meal premiums by multiplying
21 the number of workdays in which a missed meal premium is owed by the regular rate of pay.

22 60. Plaintiff's Expert's calculations determined that the unpaid meal premiums due to
23 late first meal periods plus pre-judgment interest was \$1,782,988.00.

24 61. Plaintiff's Expert calculated damages for shaved time plus pre-judgment interest
25 as \$204,141.00.

26 62. In total, this amounts to \$1,987,128.00 for unpaid meal period premiums and
27 wages/overtime.

28 63. Plaintiff's Expert Calculated Labor Code section 203 penalties to be \$628,328.00.

64. The Parties have agreed on a Maximum Settlement Amount of \$1,000,000.00. After attorneys' costs and fees, claims administration, PAGA payments to the LWDA, and an enhancement to the Class Representative, the Net Settlement amount is approximately \$515,500.00

ATTORNEY COMPETENCE

65. Kingsley & Kingsley is experienced in prosecuting and defending employment litigation, and we have focused a substantial percentage of our practice since 2000 on wage, hour, and working condition violations. My firm is well versed in class action litigation and has diligently and aggressively pursued this action. Kingsley & Kingsley currently serves as class counsel for several dozen pending class action lawsuits in Northern, Central, Eastern, and Southern California in both State and Federal Court. Throughout the past decade, I have also actively litigated countless wage and hour and consumer class actions. Below is a small, but representative sampling of those cases:

- a. *Chatman v. HVM LLC*, Los Angeles County Superior Court (BC343861). The matter was approved for final settlement by the Honorable Elihu M. Berle in March 2007, in the gross amount of \$957,000.00, with attorneys' fees request of 20.8%.
- b. *Ryan v. Hilton Hotels Corporation*, Los Angeles County Superior Court (BC364260). The matter was approved for final settlement by the Honorable Mary Thornton House in March 2008, in the gross amount of \$1,675,000.00, with attorneys' fees request of 33 1/3%.
- c. *Walker v. Hennessey's Tavern, Inc.*, Los Angeles County Superior Court (BC375599). The matter was approved for final settlement by the Honorable Richard L. Fruin in August 2009, in the gross amount of \$946,655.57.
- d. *Boske v. Toys "R" Us - Delaware, Inc.*, Los Angeles County Superior Court (BC378328). The matter was approved for final settlement by the Honorable Anne I. Jones in September 2009, in the gross amount of \$1,850,000.00, with attorneys' fees request of approximately 25%.

- e. *Lewis v. Collabrus, Inc., et al.*, Santa Clara County Superior Court (109CV-142927). The matter was approved for final settlement by the Honorable James P. Kleinberg in March 2012, in the gross amount of \$2,000,000.00, with attorneys' fees request of 33.3%.
- f. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (BC402739). The matter was approved for final settlement by the Honorable Lee Smally Edmund in June 2013, in the gross amount of \$4,700,000.00, with attorney's fees request of 38%.
- g. *Anderson v. Total Renal Care, Inc.*, Los Angeles County Superior Court (BC388335). The matter was approved for final settlement by the Honorable William F. Highberger in January 2014, in the gross amount of \$1,500,000.00, with attorney's fees request of 33.33%.
- h. *Munoz, et al. v. Giumarra Vineyards Corporation*, United States District Court for the Eastern District of California (Case No.: 1:09-cv-00703 - AWI – JLT). The matter was approved for final settlement by the Honorable Anthony W. Ishii in November 2017, in the gross amount of \$6,100,000.00, plus interest, with attorney's fees benchmark award of \$1,525,000.
- i. *Pineda, et al. v. Grimmway Enterprises, Inc.*, Kern County Superior Court (BCV-15-101333). The matter was approved for final settlement before the Hon. Stephen D. Schuett, Dept. 10, in January 2018, in the gross amount of \$9,000,000 with attorneys' fees request of 33.33%.

66. Kingsley & Kingsley filed its first class certification motion in the year 2000 and since that time has been appointed class counsel on dozens of wage and hour class actions that have been approved for class certification. Since 2011, Kingsley & Kingsley has moved for class certification in 13 matters and has successfully obtained class certification in 12 of those cases. A brief sampling of which includes:

- a. *Lewis v. Collabrus, Inc.*, Santa Clara County Superior Court (109CV-142927), approved for Class Certification in 2011.

b. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (BC402739), contested Class Certification approved in 2012.

c. *Randell v. Tuesday Morning, Inc.*, Los Angeles Superior Court (BC403298), contested Class Certification approved in 2012.

d. *Amaro, et al v. Gerawan Farming, Inc.*, United States District Court for the Eastern District of California (1:14-cv-00147-DAD-SAB), contested Class Certification approved in 2016.

e. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16 C 0214), contested class certification approved in 2018.

f. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court (BCV-16-102833), contested class certification approved in 2018.

67. Class Counsel is experienced in the handling of wage and hour class actions and supports this Settlement. Based on its analysis, Class Counsel believes that this settlement is fair and reasonable and in the best interest of the Class.

68. After factoring in the risks explained above, Class Counsel believes that the proposed settlement is fair and reasonable.

SERVICE AWARD TO THE CLASS REPRESENTATIVE

69. The Class Representative is entitled to an enhancement for his valiant effort and time expended in this matter.

70. The time spent by JESUS A. RIOS includes providing information to Class Counsel regarding the nature of the work at ALL STAR SEED, compiling documents, meeting with his attorneys to discuss the status of the case, the theories of liability, and responding promptly to Class Counsel's communications regarding settlement.

71. Thus, in addition to the sums paid to Settlement Class Members, Plaintiff requests a proposed litigation enhancement in the amount of \$12,000.00, to be paid from the Maximum Settlement Amount.

72. Class Counsel considers this to be a fair and reasonable enhancement.

73. The enhancement takes into consideration the time, effort, and expense incurred

1 by Plaintiff in coming forward to litigate this matter on behalf of all Class Counsel.

2 74. Plaintiff will provide a detailed declaration with the Final Approval Motion
3 detailing his participation and further justification for the enhancement.

4 **EXHIBITS**

5 75. Attached to this declaration as Exhibit "A" is a true and correct copy of the fully-
6 executed Joint Stipulation of Class Action Settlement and Release ("Settlement" or "Settlement
7 Agreement").

8 76. Attached to the Settlement Agreement as Exhibit "1" is a true and correct copy of
9 the proposed Notice of Class Action Settlement.

10 77. Attached to the Settlement Agreement as Exhibit "2" is a true and correct copy of
11 the Court-approved Claim Form.

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct.

14 This declaration was executed this 2nd day of April, 2020, in Encino, California.

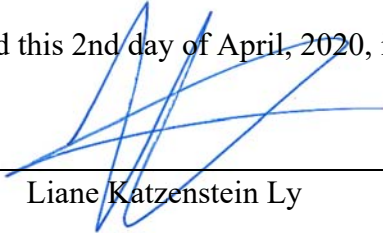
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EXHIBIT "A"

1 ERIC B. KINGSLEY, Esq. (SBN 185123)
2 eric@kingsleykingsley.com
3 LIANE KATZENSTEIN LY, Esq. (SBN 259230)
4 liane@kingsleykingsley.com
5 **KINGSLEY & KINGSLEY, APC**
6 16133 Ventura Blvd., Suite 1200
7 Encino, CA 91436
8 (818) 990-8300, Fax (818) 990-2903
9 Attorneys for Plaintiff and the Certified Classes

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF IMPERIAL**

12 JESUS A. RIOS an individual, on behalf of
13 himself and others similarly situated
14 PLAINTIFF,

15 v.

16 ALL STAR SEED; and DOES 1 thru 50,
17 inclusive,
18 DEFENDANTS.

CASE NO. ECU08770

[Case Assigned for All Purposes to Hon.
Jeffrey B. Jones in Dept. 07]

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND
RELEASE**

Complaint filed: June 18, 2015

19 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

20 This Joint Stipulation of Class Action Settlement and Release (the "Settlement") is made
21 and entered into by and between Plaintiff Jesus A. Rios ("Plaintiff" or "Class Representative"),
22 as an individual and on behalf of all others similarly situated, and Defendant All Star Seed
23 ("Defendant") (collectively with Plaintiffs, the "Parties").

24 I. **DEFINED TERMS.**

25 As used herein, the following terms are defined as:

26 A. "Action" means the case entitled *Jesus A. Rios v. All Star Seed*, pending in the
27 Superior Court of California, County of Imperial, and designated as Case No. ECU08770, and
28 the operative complaint on file therein.

1 B. “Agreement” and/or “Settlement” means this Joint Stipulation of Class Action
2 Settlement and Release.

3 C. “Claims” means the causes of action set forth in the Second Amended Complaint,
4 together with any other claim or cause of action that could have been brought in the Complaint
5 based on the facts alleged in the Complaint or discovered by the Plaintiffs and/or Defendants
6 arising out of the Complaint, which include Defendant’s alleged: (i) failure to pay wages and
7 overtime (Labor Code sections 510, 1194, 1199) (ii) failure to provide meal periods (Labor Code
8 sections 226.7 and 512); (iii) failure to provide accurate itemized wage statements (Labor Code
9 section 226(a)); (iv) failure to pay wages on termination (Labor Code section 203); (v) unfair
10 business practices in violation of Business & Professions Code § 17200 *et seq.* which arise from
11 the specific factual allegations of the Complaint; and (vi) violations of the Private Attorney
12 General’s Act (“PAGA”), Labor Code § 2698 *et seq.* which arise from the specific factual
13 allegations of the Complaint.

14 D. “Claims Administrator” means JND Legal or other third party settlement
15 administrator mutually agreed to by the parties and approved by the Court.

16 E. “Administration Costs” means any fees or costs of claims administration services
17 rendered in administering the Settlement and payable to the Claims Administrator, not to
18 exceed \$25,000, subject to Court approval.

19 F. “Class” means the aggregate group of Class Members, defined below.

20 G. “Class Members” mean all individuals who have been employed, or are currently
21 employed, by Defendant All Star Seed as “hourly employees” or similar titles, from July 28,
22 2011 to June 30, 2018 who were mailed class notice and did not opt out.

23 H. “Class Counsel” means Eric Kingsley and Liane Katzenstein Ly of Kingsley &
24 Kingsley, APC.

25 I. “Class Period” means the period from July 28, 2011 to June 30, 2018, inclusive.

26 J. “Complaint” means the Class Action Complaint filed by Plaintiff in the Imperial
27 County Superior Court on June 18, 2015.

28 K. “Costs Award” means Class Counsel’s litigation costs incurred in prosecuting the

1 Action, in an amount not to exceed ninety thousand dollars (\$90,000), as approved by the Court.

2 L. "Court" means the Superior Court of the State of California for the County
3 Imperial.

4 M. "Class List" means the list of 405 employees who were mailed Class Notice in
5 September 2018 and who did not opt out of the certified class action that will be updated by
6 Defendant to include start and end dates for each of the 405 employees.

7 N. "Class Representative" and/or "Plaintiff" means Plaintiff Jesus A. Rios.

8 O. "Class Representative Released Claims" shall be all claims or causes of action of
9 any type whatsoever, whether known or unknown, arising out of or related to the Action or
10 Plaintiff's employment with Defendant, including but not limited to any and all claims for
11 wrongful discharge of employment; termination in violation of public policy; discrimination;
12 harassment; retaliation; failure to provide reasonable accommodation; failure to engage in a
13 good faith interactive process; breach of contract, both express and implied; breach of covenant
14 of good faith and fair dealing, both express and implied; promissory estoppel; negligent or
15 intentional infliction of emotional distress; fraud; negligent or intentional misrepresentation;
16 negligent or intentional interference with contract or prospective economic advantage; unfair
17 business practices; defamation; libel; slander; negligence; personal injury; assault; battery;
18 invasion of privacy; false imprisonment; conversion; and disability benefits; any and all claims
19 for violation of any federal, state, or municipal statute, including, but not limited to, Title VII of
20 the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Rehabilitation Act of 1973; the
21 Americans with Disabilities Act of 1990; the Equal Pay Act; the Fair Labor Standards Act; the
22 Fair Credit Reporting Act; the Employee Retirement Income Security Act of 1974; the Worker
23 Adjustment and Retraining Notification Act; the Family and Medical Leave Act, the Sarbanes-
24 Oxley Act of 2002; the California Family Rights Act; the California Labor Code; the California
25 Industrial Welfare Commission Wage Orders; the California Business & Professions Code; the
26 California Fair Employment and Housing Act; any and all claims for violation of the federal, or
27 any state, constitution; any and all claims arising out of any other laws and regulations relating
28 to employment or employment discrimination, harassment or retaliation; any and all claims for

1 monetary recovery and personal or individual relief, except as prohibited by law; and any
2 premiums, penalties, interest, punitive damages, costs, attorneys' fees, injunctive relief,
3 declaratory relief, or accounting based on the claims. With regard to the Class Representative
4 Released Claims, Plaintiff expressly waives all rights under California Civil Code Section 1542,
5 which states:

6 A general release does not extend to claims which the creditor does
7 not know or suspect to exist in his or her favor at the time of
8 executing the release, which if known to him or her must have
 materially affected his or her settlement with the debtor.

9 Plaintiff may hereafter discover facts in addition to or different from those which she now
10 knows or believes to be true with respect to the subject matter of the Class Representative
11 Released Claims, but she shall be deemed to have, and by operation of the Judgment shall have,
12 fully, finally, and forever settled and released any and all Class Representative Released Claims,
13 known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not
14 concealed or hidden, which then exist, or heretofore have existed upon any theory of law or
15 equity now existing or coming into existence in the future, including, but not limited to, conduct
16 which is negligent, intentional, with or without malice, or a breach of any duty, law or rule,
17 without regard to the subsequent discovery or existence of such different or additional facts.

18 P. “Defendant” means All Star Seed.

19 Q. “Defendant’s Counsel” means Scott C. Lacunza of Jackson Lewis P.C.

20 R. “Effective Date” means sixty-five (65) calendar days after the entry of Judgment.
21 If any appeal is taken, then the Effective Date will be ten (10) calendar days after all appeals are
22 withdrawn or after an appellate decision affirming the Final Approval Order and Judgment
23 becomes final.

24 S. “Employee Taxes” means the Settlement Class Members’ share of all applicable
25 payroll taxes or withholdings related to Individual Settlement Payments received under the
26 Settlement. Plaintiffs and Settlement Class Members bear full responsibility for payment of any
27 personal income taxes, interest or penalties arising from Individual Settlement Payments or
28 Incentive Awards paid to them.

1 T. "Employer Taxes" means Defendant's share of applicable payroll taxes, such as
2 FICA and FUTA, for that portion of the Individual Settlement Payments attributed to wages.
3 Any payroll taxes owed by Defendant as a result of the Individual Settlement Payments to
4 Settlement Class Members shall be paid by Defendant in addition to and separate from the
5 Maximum Settlement Amount.

6 U. "Excluded Class Members" means all Class Members who timely submit valid
7 written requests to be excluded from the Settlement on or before the Response Deadline.

8 V. "Fees and Costs Award" means the aggregate total of the Fees Award and the
9 Costs Award, as approved by the Court.

10 W. "Fees Award" means the fee amount authorized by the Court to be paid to Class
11 Counsel for services rendered in prosecuting the Action, in an amount not to exceed Three
12 Hundred and Fifty Thousand, Dollars and No Cents (\$350,000.00).

13 X. "Final Approval" and/or "Final Approval Order and Judgment" means the Court's
14 order granting final approval of the Settlement and entering judgment thereon in a form to be
15 agreed upon by the Parties in advance, subject to approval and modification by the Court.

16 Y. "Final Approval Date" means the date the Court signs the Final Approval Order
17 and Judgment.

18 Z. "Final Approval Hearing" means the hearing at which the Court considers whether
19 to issue an order granting final approval to the Settlement.

20 AA. "Incentive Award" means the amounts the Court authorizes to be paid to the Class
21 Representative (in addition to his Individual Settlement Payments) in recognition of his efforts
22 in assisting with the prosecution of the Action on behalf of the Class Members. This amount is
23 not to exceed Twelve Thousand Dollars and No Cents (\$12,000.00). ← (\$ 10,000)

24 BB. "Individual Settlement Payment" means each Settlement Class Member's
25 respective share of the Net Settlement Fund, subject to applicable payroll deductions or
26 withholdings as required by law.

27 CC. "Judgment" means the Final Approval Order and Judgment issued by the Court,
28 which (a) shall constitute a dismissal with prejudice of the Complaint and a final judgment

1 making this Settlement effective and binding on the Parties, and (b) shall permanently bar the
2 Class Representative and all Settlement Class Members from prosecuting any and all Released
3 Claims against the Released Parties.

4 DD. "Maximum Settlement Amount" means the maximum total amount Defendant is
5 obligated to pay under the terms of this Settlement, which is equal to One Million Dollars and
6 No Cents (\$1,000,000.00), which represents the maximum amount payable in this settlement
7 by Defendant, which includes Class Counsel's attorneys' fees and costs, litigation costs, Claims
8 Administration Costs, all PAGA-related payments, all Settlement Payments to Class Members,
9 and the Service Enhancement Payment to the Class Representative. Employer payroll taxes due
10 on wage payments from the Maximum Settlement Amount shall be paid separately by
11 Defendant, in addition to the Maximum Settlement Amount.

12 EE. "Net Settlement Amount" Fund" or "Net Settlement Amount" is the portion of the
13 Maximum Settlement Amount eligible for distribution to Qualified Claimants and shall be the
14 amount remaining after deduction of the Class Counsel's attorneys' fees, litigation costs, the
15 Service Enhancement Payment to the Class Representative, the Claims Administration Costs,
16 and the PAGA-related payment to the LWDA.

17 FF. "Notice of Class Action Settlement" shall mean the document providing notice to
18 Class Members of this Settlement, attached hereto as **Exhibit 1**.

19 GG. "PAGA Payment" means that portion of the Total Settlement Amount allocated
20 to settle claims brought pursuant to the Private Attorneys General Act, California Labor Code
21 Section 2698 *et seq.*, not to exceed \$10,000.00, as approved by the Court, which shall be
22 distributed to the California Labor and Workforce Development Agency and Settlement Class
23 Members as set forth herein. The PAGA Payment shall be allocated as follows: twenty-five
24 percent (25% or \$2,500.00) to the Settlement Class Members and seventy-five percent (75% or
25 \$7,500.00) to the California Labor and Workforce Development Agency. The twenty-five
26 percent (25%) portion of the PAGA Payment allocated to Settlement Class Members shall
27 remain part of the Net Settlement Fund available for calculation of the Individual Settlement
28 Payments. If it should later be determined by the Court that an additional amount is needed to

1 effectuate a full and complete release of all California Labor Code Private Attorneys' General
2 Act claims, Labor Code Section 2698 *et seq.*, any additional amounts shall be deducted from the
3 Total Settlement Amount.

4 HH. "Parties" means the Class Representative, the Class, and Defendant.

5 II. "Preliminary Approval Order" means an order to be issued by the Court
6 preliminarily approving the terms of the Settlement set forth herein, in a form to be agreed upon
7 by the Parties in advance, subject to approval and modification by the Court.

8 JJ. "Preliminary Approval Date" means the date the Court signs the Preliminary
9 Approval Order.

10 KK. "QSF" shall mean the Qualified Settlement Fund established by the Claims
11 Administrator for the benefit of the Class Members and from which all Settlement Payments
12 and other payments under this Settlement shall be paid.

13 LL. "Qualified Claimant" means a Class Member who has timely submitted a correctly
14 completed Claim Form to the Claims Administrator, signed under penalty of perjury, and who
15 has not opted-out of the Settlement, *i.e.*, a person who has not timely submitted a valid Request
16 for Exclusion from the Settlement to the Claims Administrator.

17 MM. "Qualified Work Weeks" means the number of weeks during which an individual
18 Class Member worked for Defendant in California in an hourly, non-exempt position during the
19 Class Period.

20 NN. "Released Class Member Claims" means all causes of action that were alleged in
21 the Complaint as well as any other claims that could have been brought based on the specific
22 facts alleged in the Complaint, which include: (i) failure to pay wages and overtime (Labor Code
23 sections 510, 1194, 1199); (ii) failure to provide meal periods (Labor Code sections 226.7 and
24 512); (iii) failure to provide accurate itemized wage statements (Labor Code section 226(a));
25 (iv) failure to pay wages on termination (Labor Code section 203); (v) unfair business practices
26 in violation of Business & Professions Code § 17200 *et seq.* which arise from the specific factual
27 allegations of the Complaint; and (vi) violations of the Private Attorney General's Act
28 ("PAGA"), Labor Code § 2698 *et seq.* which arise from the specific factual allegations of the

1 Complaint, and any other claim arising from the facts alleged in the Complaint related to wages,
2 hours, benefits, working conditions, compensation, whether arising from the laws of the United
3 States, California or any other state, any local government, or any foreign nation, except those
4 claims excluded by this paragraph. The Released Claims only cover claims arising or accruing
5 prior to or during the Class Period. As of the Effective Date, each Plaintiff and each Settlement
6 Class Member shall be deemed to have fully, finally, and forever released, relinquished, and
7 discharged all Released Claims. This waiver and release of claims shall be binding on Plaintiff
8 and all Settlement Class Members, including each of their respective attorneys, agents, spouses,
9 executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to
10 the benefit of each Released Party. The Released Claims do not include: (1) claims for Workers'
11 Compensation, (2) claims for unemployment or disability payments, (3) claims for
12 discrimination, retaliation or harassment under Title VII or California's Fair Employment and
13 Housing Act, or (4) tort claims unrelated to wages, employment, hours, benefits, working
14 conditions, or compensation, or (5) any claims that cannot be released as a matter of law.

15 OO. "Released Parties" means Defendant All Star Seed, and each of its past, present,
16 and future parents, subsidiaries, divisions, entities under common control with All Star Seed
17 affiliates, and their respective past, present, and future officers, directors, employees, partners,
18 shareholders, investors, members, owners, consultants, agents, vendors, affiliates, insurers, legal
19 representatives, financial advisors, and all of their successors (including persons or entities who
20 may acquire them in the future), assigns, representatives, heirs, executors, and administrators
21 and all other persons acting by, through, under or in concert with them that could be liable for
22 any of the Released Claims.

23 PP. "Request for Exclusion" means the document which a Class Member must
24 complete and timely submit in order to opt-out of the Settlement.

25 QQ. "Response Deadline" means the date, no later than sixty (60) calendar days after
26 the date the Notice is mailed (judged by the postmark date) by the Claims Administrator, prior
27 to which Class Members may validly submit a completed Claim Form to the Claims
28 Administrator, signed under penalty of perjury, Request for Exclusion or a written Objection.

1 RR. "Settlement Class Members" or the "Settlement Class" means those Class
2 Members who do not submit a timely and valid Request for Exclusion.

3 SS. "Settlement" means the terms and conditions set forth in this Stipulation.

4 TT. "Settlement Documents" or "Notice Packet" shall mean the Notice of Class Action
5 Settlement, attached hereto as **Exhibit 1**, and the Claim Form, attached hereto as **Exhibit 2**,
6 which shall be mailed to Class Members in both English and Spanish.

7 UU. "Settlement Payment" means the total, gross amount due to a Qualified Claimant,
8 which shall be calculated pursuant to the terms of this Stipulation.

9 VV. "Settling Parties" shall mean the Class Representative, on behalf of himself and
10 all Class Members who do not submit a valid Request for Exclusion from the Settlement to the
11 Claims Administrator, and Defendant.

12 WW. "Stipulation" and "Agreement" shall mean this Joint Stipulation of Class Action
13 Settlement.

14 XX. "Total Qualified Work Weeks" means the total aggregate number of work weeks
15 during which all Class Members worked for Defendant in California in an hourly, non-exempt
16 position during the Class Period.

17 This Stipulation is made by the Class Representative on behalf of himself and the Class
18 Members, on the one hand, and Defendant, on the other hand, in this Action, and is subject to
19 approval of the Court.

20 II. BACKGROUND AND PRELIMINARY REPRESENTATIONS

21 A. Class Certification. This is a certified Class Action, and the Class Members
22 included in this Settlement are the 405 Class Members who were previously mailed Class
23 Notice and given the opportunity to opt out of the Certified Class.

24 B. Investigation. The Parties have conducted significant investigation of the facts
25 and law. Such discovery and investigation included interviews with the Class Representatives
26 and other percipient witnesses as well as the review of documents and data necessary to calculate
27 potential damages. Defendant produced all time and pay data for the vast majority of the
28 Certified Class Members and all policy documents utilized during the Class Period.

1 Additionally, Plaintiff deposed two corporate representatives. This case settled on the eve of
2 trial after Class Counsel had the time and pay data analyzed by an expert who was prepared to
3 testify at trial. Counsel for the Parties investigated the law as applied to the facts discovered
4 regarding the alleged claims of the Class Members and potential defenses thereto, and the
5 damages claimed by the Class Members.

6 C. Defendant's Reasons for Settlement. Defendant concluded that any further
7 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts
8 of time, energy and resources of Defendant have been and, unless this Settlement is made, will
9 continue to be devoted to the defense of the Claims asserted. Defendant has also taken into
10 account the risks of further litigation in reaching its decision to enter into this Settlement.
11 Defendant has, therefore, agreed to settle in the manner and upon the terms set forth in this
12 Agreement to put to rest the Claims as set forth in the Action.

13 D. Defendant's Denials of Wrongdoing. Defendant denied and continues to deny
14 each of the claims and contentions alleged by Class Members in the Action. Defendant asserted,
15 and continues to assert, defenses thereto, and expressly denied and continues to deny any
16 wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action.
17 Defendant also denied and continues to deny, *inter alia*, the allegations that the Class Members
18 have suffered damage; that Defendant in any way failed to pay Class Members for all hours
19 worked; that Defendant violated any laws regarding meal periods, rest breaks and/or reporting
20 time pay; that Defendant failed to timely pay Class Members all wages owed upon
21 termination/resignation or otherwise when due; that Defendant failed to comply with the law
22 with respect to itemized wage statements; that Defendant engaged in any unlawful, unfair or
23 fraudulent business practices; that Defendant engaged in any wrongful conduct as alleged in the
24 Action; or that Class Members were harmed by the conduct alleged in the Action. Neither this
25 Agreement, nor any document referred to or contemplated herein, nor any action taken to carry
26 out this Agreement, is, may be construed as, or may be used as an admission, concession or
27 indication by or against Defendant of any fault, wrongdoing or liability whatsoever.

28 E. Plaintiff's Claims. The Class Representative has claimed and continues to claim

1 that the Released Claims have merit and give rise to liability on the part of Defendant. This
2 Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no
3 documents referred to herein and no action taken to carry out this Agreement may be construed
4 or used as an admission by or against the Class Representative or Class Counsel as to the merits
5 or lack thereof of the Claims asserted.

6 **NOW, THEREFORE, IT IS HEREBY STIPULATED**, by and among the Class
7 Representative on behalf of the Class Members on the one hand, and Defendant on the other
8 hand, and subject to Court approval, that the Action is hereby being compromised and settled
9 pursuant to the terms and conditions set forth in this Settlement as a final disposition of the
10 Action in its entirety and that upon the Effective Date, each and every Settlement Class Member
11 shall be deemed to have conclusively released and forever discharged each Released Party for
12 any and all Released Claims, and shall be permanently barred and enjoined from the institution
13 or prosecution of any and all Released Claims against the Released Parties, except as to such
14 rights or claims as may be created by the Settlement, subject to the continuing jurisdiction of
15 the Superior Court as set forth below, pursuant to the following terms and conditions:

16 **III. AGREEMENT**

17 A. Release As To All Settlement Class Members. As of the Effective Date, each
18 Settlement Class Member (including the Class Representatives) releases the Released Parties
19 from any and all Released Claims and agrees not to sue or otherwise make a claim against any
20 of the Released Parties for the Released Claims.

21 B. Additional General Release of All Claims by Class Representative Only. In
22 addition to the releases made by the Settlement Class Members described above, as of the
23 Effective Date, Plaintiff knowingly and voluntarily releases and forever discharges the Released
24 Parties from any and all claims, demands, rights, liabilities and causes of action of every nature
25 and description whatsoever, contingent or absolute, suspected or unsuspected, liquidated or
26 unliquidated, known or unknown, asserted or that might have been asserted, whether in tort,
27 contract, or for violation of any local, state, or federal statute, rule or regulation or common law
28 obligation, or any foreign law, arising out of, relating to, or in connection with any act or

1 omission by or on the part of any of the Released Parties committed or omitted during the Class
2 Period that relates in any way to his employment with All Star Seed (the “General Release”).
3 Such claims include, but are not limited to: breaches of contract, whether written, oral or
4 implied; violations of any public policy; tort claims, including but not limited to intentional
5 infliction of emotional distress and negligent infliction of emotional distress, defamation,
6 misrepresentation, and fraud; retaliation claims; common law claims; any other claims for
7 damages, costs, fees, or other expenses, including attorneys’ fees; and any violations of the
8 following statutes, laws, and regulations: Title VII of the Civil Rights Act of 1964, as amended;
9 The Civil Rights Act of 1991; Sections 1981 through 1988 of Title 42 of the United States Code,
10 as amended; The Americans with Disabilities Act of 1990, as amended; The Age Discrimination
11 in Employment Act of 1967, as amended; the Older Workers Benefit Protection Act; the
12 Employment Retirement Income Security Act of 1974, as amended; the Occupational Safety
13 and Health Act, as amended; the Sarbanes-Oxley Act of 2002; the Family and Medical Leave
14 Act of 1993, as amended; the Fair Labor Standards Act; the California Fair Employment and
15 Housing Act – Cal. Gov. Code § 12900 *et seq.*; the California Family Rights Act – Cal. Gov.
16 Code §12945.2 *et seq.*; the California Unruh Civil Rights Act – Civ. Code §51 *et seq.*; the
17 California Whistleblower Protection Law – Cal. Lab. Code §1102.5(a) to (c); the California
18 Occupational Safety and Health Act, as amended, Cal. Lab. Code § 6300 *et seq.*, and any
19 applicable regulations thereunder; the California Labor Code; the Labor Code Private Attorneys
20 General Act of 2004 – Cal. Lab. Code § 2698 *et seq.*; California Labor Code § 132a; and any
21 other federal, state, or local civil employment law, statute, regulation, or ordinance capable of
22 being released by Plaintiff, excluding any claims that cannot be released as a matter of law.

23 This General Release includes any unknown claims that the Class Representative does
24 not know or suspect to exist in her favor at the time of the General Release, which, if known by
25 her, might have affected her settlement with, and release of, the Released Parties or might have
26 affected her decision not to object to this Settlement or the General Release. Class
27 Representative stipulates and agrees that, upon the Effective Date, she shall be deemed to have,
28 and by operation of the Court’s Final Approval Order, shall have expressly waived and

1 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section
2 1542 of the California Civil Code, or any other similar provision under federal or state law,
3 which provides:

4 **A general release does not extend to claims which the creditor**
5 **does not know or suspect to exist in his or her favor at the time**
6 **of executing the release, which if known by him or her must have**
7 **materially affected his or her settlement with the debtor.**

8 Class Representative may hereafter discover facts in addition to or different from those they
9 now know or believe to be true with respect to the subject matter of the General Release, but
10 upon the Effective Date, shall be deemed to have, and by operation of the Court's Final Approval
11 Order, shall have, fully, finally, and forever settled and released any and all of the claims
12 released pursuant to the General Release whether known or unknown, suspected or unsuspected,
13 contingent or non-contingent, which now exist, or heretofore have existed upon any theory of
14 law or equity now existing or coming into existence in the future, including, but not limited to,
15 conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or
16 rule, without regard to the subsequent discovery or existence of such different or additional facts.
17 Notwithstanding the above, the scope of the General Release provided to Defendant and the
18 Released Parties by the Class Representative does include any claims that cannot be released as
19 a matter of law.

20 C. Tax Liability. Defendant makes no representations as to the tax treatment or legal
21 effect of the payments called for hereunder, Plaintiff is advised to consult with competent tax
22 counsel in connection with this Settlement, and Plaintiff is not relying on any statement or
23 representation by Defendant in this regard. Plaintiff understands and agrees that Settlement
24 Class Members will be solely responsible for the payment of Employee Taxes and associated
25 penalties predicated on those payments, if any. Defendant shall be held harmless from and
26 against any claims resulting from treatment of such payments as non-taxable damages, including
27 the treatment of such payments as not subject to withholding or deduction for payroll and
28 employment taxes.

D. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT

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

E. Funding of the Maximum Settlement Amount. Defendant shall pay an amount not to exceed \$1,000,000.00 U.S. Dollars as the Maximum Settlement Amount to resolve the Action on a class-wide basis. Under no circumstances will Defendant be obligated to pay any more than the Maximum Settlement Amount. The Parties agree to the following allocations to be paid from the Maximum Settlement Amount, subject to Court approval:

1 1. From the Maximum Settlement Amount, Defendant will not oppose Class
2 Counsel's application to the Court for up to Three Hundred and Fifty Thousand U.S. Dollars
3 (\$350,000.00) of the Maximum Settlement Amount for attorneys' fees, subject to the approval
4 of the Court. Defendant will not oppose Class Counsel's application to the Court for up to
5 Ninety Thousand U.S. Dollars (\$90,000.00) of the Maximum Settlement Amount for
6 reimbursement of litigation costs, subject to the approval of the Court.

7 2. From the Maximum Settlement Amount, Defendant will not oppose Class
8 Counsel's application to the Court for the Incentive Award payment to the Class Representative
9 in the gross amount of Twelve Thousand U.S. Dollars (\$12,000.00), in consideration for his
10 individual and general full release of all claims, as set forth in the Class Representative Released
11 Claims, and for her efforts in instituting and participating in the Action. The amount of the
12 Incentive Award payment will be subject to the approval of the Court.

13 3. Because the Incentive Award payment represents payment to the Class
14 Representative for services to the Class Members and consideration for the general release, taxes
15 will not be withheld from the Service Enhancement Payment. The Claims Administrator will
16 report the Service Enhancement Payment on an IRS Form 1099, and any other required tax
17 forms, and will provide said forms to the Class Representative and to the pertinent taxing
18 authorities as required by law.

19 4 From the Maximum Settlement Amount, Claims Administration Costs
20 shall be paid in an amount not to exceed Twenty Five Thousand U.S. Dollars (\$25,000.00).

21 5. To the extent the Court does not approve the full amount requested as Class
22 Counsel's attorneys' fees, litigation costs, or the Class Representative's Service Incentive
23 Award payment, all unrequested and unawarded amounts shall be paid to Qualified Claimants
24 on a pro rata basis in addition to the Net Settlement Fund, proportionally with the value of their
25 Settlement Payments.

26 6. From the Maximum Settlement Amount, the portion to be allocated for
27 settlement of any and all claims for penalties under PAGA is Ten Thousand Dollars
28 (\$10,000.00), 75% of which shall be paid to the LWDA and 25% of which shall be paid to

1 Qualified Claimants as part of the Net Settlement Fund.

2 7. The Net Settlement Fund shall be the amount remaining after deduction of
3 the Class Counsel's attorneys' fees, the Class Counsel's litigation costs, Class Representative's
4 Incentive Award Payment, the Claims Administration Costs, and the PAGA payment to the
5 LWDA. This shall be a claims-made settlement, with claims being paid from the Net Settlement
6 Fund. Defendant will pay Qualified Claimants a minimum of 60% of the Net Settlement Fund,
7 even if less is claimed. Any unclaimed amount in excess of 60% of the Net Settlement Fund
8 shall remain the property of and be retained by Defendant and will not be paid out under this
9 Settlement.

10 F. Calculation of Settlement Payments. The Claims Administrator will calculate pro
11 rata Settlement Payments to Class Members from the Net Settlement Fund based on the
12 following formulas for allocating the Settlement Payments, which the Parties and their Counsel
13 believe are reasonable and are designed to provide a fair apportionment of the settlement funds
14 to the Class:

15 1. Defendant will provide the Claims Administrator with the number of
16 Qualified Work Weeks worked by each Class Member;

17 2. The Claims Administrator shall divide the Net Settlement Fund by the
18 Total Qualified Work Weeks, thereby determining the Qualified Work Week Value.

19 3. The Claims Administrator will pay each Qualified Claimant the sum of the
20 number of Qualified Work Weeks worked by the Qualified Claimant times the Qualified Work
21 Week Value, plus a pro rata share of any unawarded portion of Class Counsel's attorneys' fees,
22 litigation costs, or the Class Representative's Incentive Award Payment.

23 Tax Treatment. For tax purposes, 80% of all payments made to Class Members
24 under this Settlement shall be treated as non-wage payments of claimed penalties (60%) and
25 interest (20%) that will not be subject to payroll taxes or tax withholding (an IRS Form 1099
26 will be issued for such payments), and 20% of all payments made to Class Members under this
27 Settlement shall be treated as wage payments for claimed unpaid wages that will be subject to
28 payroll taxes and tax withholding (an IRS Form W-2 will be issued for such payment) Neither

1 Defendant, its attorneys, or Plaintiff's counsel, make any representations and it is understood
2 and agreed that they have made no representations as to the taxability to any Class Members of
3 any portions of the Settlement Payments or other consideration. The Parties further understand
4 that the Class Representative and any Class Member who receives any Settlement Payment
5 pursuant to this Stipulation shall be solely responsible for any and all tax obligations associated
6 with such receipt. The Class Representative and any Class Member who receives any Settlement
7 Payment should consult with their tax advisors concerning the tax consequences of the
8 Settlement Payments they receive under the Settlement.

9 G. Benefits Not Affected. Defendant will not use the Settlement Payments to
10 calculate any additional benefits including, for example (but without limitation), vacation,
11 holiday pay, pension, or 401(k) plan contributions. The Settlement Payments do not represent
12 any modification of previously credited hours of service or other eligibility criteria under any
13 employee pension or employee welfare benefit plan sponsored by Defendant, and are not
14 "compensation" for purposes of determining eligibility for, or benefit accrual within, an
15 employee pension benefit plan, an employee welfare benefit plan, or other plan sponsored by
16 Defendant or its predecessors, subsidiaries, or successors.

17 H. Eligibility for Settlement Payments for Qualified Claimants. This is a "claims
18 made" settlement, with claims being made against the Net Settlement Fund. Class Members
19 who have timely submitted valid Claim Forms and have not opted-out of the Settlement will be
20 considered "Qualified Claimants" eligible to receive a Settlement Payment. Only Qualified
21 Claimants will be eligible to receive a Settlement Payment. Class Members who have not
22 submitted timely and valid Claim Forms, but have not filed timely and valid Requests for
23 Exclusion, will still be bound by the Settlement and the terms regarding the Class Member
24 Released Claims, but will not be entitled to receive a Settlement Payment.

25 I. Settlement Payments Paid Over Time. Beginning on March 12, 2020, Defendant
26 shall deposit \$125,000.00 with Class Counsel into their client trust account. Following this
27 initial payment and beginning on June 30, 2020, Defendant shall make quarterly payments in
28 on the last day of the month until the Settlement is paid taking into account the number of

1 Qualified Claimants and the percentage of the Net Settlement Amount that is actually claimed.

2 The payment plan is as follows, assuming 100% of the Claimants made claims:

- 3 1. March 12, 2020: \$125,000.00
- 4 2. June 30, 2020: \$60,000.00
- 5 3. September 30, 2020: \$60,000.00
- 6 4. December 31, 2020: \$60,000.00
- 7 5. March 31, 2021: \$60,000.00
- 8 6. June 30, 2021: \$60,000.00
- 9 7. September 30, 2021: \$60,000.00
- 10 8. December 31, 2021: \$60,000.00
- 11 9. March 31, 2022: \$60,000.00
- 12 10. June 30, 2022: \$60,000
- 13 11. September 30, 2022: \$60,000.00
- 14 12. December 31, 2022: \$71,200.00
- 15 13. March 31, 2023: \$70,000.00
- 16 14. June 30, 2023: \$70,000.00
- 17 15. September 11, 2023: \$63,800.00

11 J. If one of the fifteen payments described above is late (by more than seven (7)
12 days) or not paid in full, the full judgment of \$1,000,000.00 will due immediatly and Plaintiff is
13 empowered to take any and all measures to collect said judgment. Plaintiff will be entitled to
14 reasonable costs and attorney's fees for collecting said judgment.

15 K. The payment plan above assumes that 100% of the Claimants make claims. If
16 less than 60% of work weeks are claimed by the Qualified Class Members, then the twelfth
17 payment will be the last payment based upon present calculations. The Settlement
18 Administrator will advise the Parties as to when the deposited funds are sufficient to pay all
19 obligations under the Settlement Agreement. Class Counsel will be able to inform the Court at
20 final approval of the exact number of payments and the actual amount Defendant owes under
21 the Settlement Agreement.

22 L. If the settlement is not approved for any reason, the settlement will be voided and
23 all monies will be returned to Defendant. Once paid, so long as the settlement is approved by
24 the Court, Defendant has no property interest in the funds.

25 M. Two Distributions of Settlement Payments. After the Court grants final approval
26 of the Settlement, the Claims Administrator shall prepare and provide to counsel a final list of
27 all Qualified Claimants who have timely submitted a valid Claim Form and did not opt-out of
28 the Settlement. For each Qualified Claimant on this list, the Claims Administrator will calculate

1 and list the amounts due to each Qualified Claimant, and the total amount due to all Qualified
2 Claimants. Defendant shall provide to the Claims Administrator the funds necessary for all
3 payments required by this Settlement, including all awarded Class Counsel attorneys' fees and
4 litigation costs, the awarded Claims Administration costs, the PAGA-related payments, the
5 awarded Service Enhancement Payment, and all funds required to be paid to Qualified
6 Claimants to an account designated by the Claims Administrator, based on the payment schedule
7 in Section K. The Claims Administrator shall pay out the Settlement in two distributions. The
8 first distribution shall be made in December 2021. This first distribution shall include the
9 entire payment to the LWDA, Plaintiff's enhancement, 1/2 of the costs for class counsel's costs,
10 and 2/3 of the costs for claims administration. The remainder of the money shall be distributed
11 in the first distribution on a pro rata basis between Class Counsel for their fees and the Class
12 Members. Checks to Qualified Claimants shall be valid for 180 days after issuance. The
13 Second Distribution shall be completed by the Claims administrator upon receipt of the final
14 Settlement Funds. At the time of receipt of the final funds, the Claims Administrator shall have
15 ten (10) days to mail out settlement checks to the Class Members, Class Counsel, and pay itself
16 the remaining 1/3 of claims administration costs. Any checks from the first distribution that
17 were not cashed shall be re-mailed (after performing a skip trace on the addressees). Checks to
18 Qualified Claimants shall be valid for 180 days after issuance. Any checks that still remain
19 uncashed shall escheat to cy pres designee as agreed to by the parties Bel Tzedek Legal Services. 4/1/21

20 N. Court Approval of the Settlement. Class Counsel shall be responsible for
21 preparing and filing the Motion for Preliminary Approval of the Settlement and the Motion for
22 Final Approval of the Settlement, and any supporting documents. Prior to the final approval
23 hearing by the Court, the Parties will submit a proposed Final Order(s): (i) certifying the Class
24 for settlement purposes only; (ii) finding the Settlement fair, reasonable, and in the best interests
25 of the Class Members; (iii) approving Class Counsel's application for an award of attorneys'
26 fees and litigation costs; (iv) approving the Class Representative's application for a Service
27 Enhancement Payment; (v) approving payment of Claims Administration Costs; (vi) approving
28 the payment to the LWDA for PAGA penalties; and (vii) releasing and barring all Settlement

1 Class Member Released Claims. The Parties and their Counsel shall make all reasonable efforts
2 to secure entry of the Order Granting Final Approval.

3 Prior to the Final Approval Hearing, concurrent with or prior to the filing of the motion
4 for final approval, Class Counsel shall file a motion seeking approval of attorneys' fees and
5 costs and the proposed Incentive Award to the Class Representative as set forth in this
6 Stipulation.

7 O. Termination of Settlement Agreement. If the conditions of the Settlement set
8 forth in this Stipulation are not satisfied or if the Court does not enter judgment in the Action
9 in accordance with the Settlement as provided for in this Stipulation, or if appellate review is
10 sought and on such review the Court's decision is materially modified or reversed, or, if one or
11 more of the terms of the Settlement is not approved or the Settlement with respect to one or
12 more such terms is materially modified or reversed, then this Settlement shall be canceled,
13 terminated, and shall have no force or effect. If the Effective Date does not occur, or if this
14 Settlement is terminated, revoked, or canceled pursuant to its terms, the Parties to this
15 Settlement shall be deemed to have reverted to their respective status as of the date and time
16 immediately prior to the execution of this Settlement.

17
18 IV. CLAIMS ADMINISTRATION

19 A. Selection and Compensation of Claims Administrator. The Parties agree to
20 jointly utilize the third-party Claims Administrator to give notice of and communicate with
21 Class Members regarding the Settlement. The Parties have selected JND Legal to administer
22 the Settlement. If the actual cost of claims administration is less than the amount approved by
23 the Court, those funds shall be paid to Qualified Claimants in addition to the Net Settlement
24 Fund on a pro rata basis. All costs associated with claims administration shall come out of the
25 Maximum Settlement Amount. The Claims Administrator's actions shall be governed by the
26 terms of this Stipulation.

27 B. Establishment and Funding of the QSF. The Parties agree that the QSF is
28 intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treas. Reg.

1 §1.468B-1, 26 CFR § 1.468B-1, *et seq.*, and will be administered by the Claims Administrator
2 as such. With respect to the QSF, the Claims Administrator shall: (1) open and administer a
3 settlement account in such a manner as to qualify and maintain the qualification of the QSF as
4 a “Qualified Settlement Fund” under Section 468B of the Code and Treas. Reg. §1.468B-1; (2)
5 satisfy all federal, state and local income and other tax reporting, return, and filing
6 requirements with respect to the QSF; and (4) satisfy out of the QSF all fees, expenses and
7 costs incurred in connection with the opening and administration of the QSF and the
8 performance of its duties and functions as described in this Agreement. The aforementioned
9 fees, costs and expenses shall be treated as and included in the costs of administering the QSF
10 and as Claims Administration Costs.

11 C. Claims Administration. Defendant will provide the names, the last known
12 residence address, social security number, the number of Qualified Pay Periods and dates of
13 employment of each Class Member (“Class Data”) to the Claims Administrator. Defendant
14 will provide the Class Data to the Claims Administrator no later than ten (10) calendar days
15 after the Date of Preliminary Approval. Upon receipt of the Class Data, the Claims
16 Administrator shall check the names of former employee Class Members with the U.S. Postal
17 Service National Change of Address Database and update any addresses with any new
18 information found regarding the location of those Class Members. The Claims Administrator
19 will update the Database with all new contact information found pursuant to its obligations in
20 this paragraph, or based on information provided by Class Members during the Claims
21 process. Class Data shall be used by the Claims Administrator solely for the purpose of
22 notifying the Class Members of the Settlement. Class Data shall be provided in a format to be
23 mutually agreed upon by the Claims Administrator and Defendant.

24 D. Class Notice. As soon as practicable after receiving the Class Data, but no later
25 than ten (10) calendar days after its receipt, the Claims Administrator shall send via United
26 States First Class Mail the Settlement Documents, consisting of the Court-approved Notice of
27 Class Action Settlement (“Notice”) (**Exhibit 1**) and a Court-approved Claim Form (**Exhibit 2**)
28 collectively “Notice Packet”) to the Class Members. The Notice shall state that Class

1 Members will have sixty (60) calendar days from the date the Notice is mailed to return the
2 Claim Form or return the Request for Exclusion, or object to the Settlement. Approximately
3 twenty (20) calendar days after the Settlement Documents are mailed to Class Members, a
4 reminder postcard shall be mailed to each Class Member who has not yet submitted a Claim
5 Form or Request for Exclusion. The costs of this notice program will be considered part of the
6 Claims Administration Costs to be paid from the Maximum Settlement Amount. Unless the
7 Claims Administrator receives a Notice Packet returned from the United States Postal Service
8 with a forwarding address for the recipient, that Notice Packet shall be deemed mailed and
9 received by the Class Member to whom it was sent. In the event that subsequent to the first
10 mailing of a Notice Packet and prior to the Claims Period Deadline, that Notice Packet is
11 returned to the Claims Administrator by the United States Postal Service with a forwarding
12 address for the recipient, the Claims Administrator shall re-mail the Notice Packet to that
13 address within five (5) business days, the Notice Packet will be deemed mailed as of the date
14 of re-mailing, the forwarding address shall be deemed the updated address for that Class
15 Member, and the Settlement Class Member must return a Claim Form by the Claims Period
16 Deadline or within fifteen (15) calendar days from the date of re-mailing, whichever is later, in
17 order to participate in the Settlement. In the event that subsequent to the first mailing of a
18 Notice Packet, the Notice Packet is returned to the Claims Administrator by the United States
19 Postal Service because the address of the recipient is no longer valid, the Claims Administrator
20 shall perform reasonable address verification measures in an effort to ascertain the current
21 address of the particular Class Member in question and, if such an address is ascertained, the
22 Claims Administrator shall re-mail the Notice Packet within five (5) business days of
23 receiving such information, the Notice Packet will be deemed mailed as of that date of re-
24 mailing, the newly obtained address shall be deemed the updated address for that Class
25 Member, and the Class Member must return a Qualifying Claim Form by the Claims Period
26 Deadline or within fifteen (15) days from the date of re-mailing, whichever is later, in order to
27 participate in the Settlement. If no updated address is obtained for that Class Member from a
28 Notice Packet returned by the United States Postal Service, no Notice Packet shall be re-

1 mailed. If applicable, the Notice Packet shall be deemed received when it is mailed for the
2 second time under this paragraph.

3 E. Claims Period. Class Members shall have sixty (60) calendar days from the date
4 of mailing of the Class Notice to return a valid Claim Form (the “Claims Period”) to the
5 Claims Administrator. If the 60th day falls on a Sunday or holiday, the deadline to return
6 Claim Forms will be the next business day that is not a Sunday or holiday. Class Members
7 who return valid, signed Claim Forms bearing a postmark or other proof of transmission
8 within the Claims Period shall be deemed “Qualified Claimants” under the Settlement.
9 Qualified Claimants will receive their allocation from the Net Settlement Fund agreed upon
10 and calculated pursuant to the terms of this Stipulation. Claim Forms bearing a postmark
11 outside the Claims Period will be considered late claims. Class Members who return late
12 Claim Forms will not be considered Qualified Claimants, unless agreed to in Defendant’s sole
13 discretion, but will still be bound by the Class Member Released Claims.

14 F. Class Member’s Data. In calculating each individual Class Member’s share of
15 the settlement, Defendant’s records regarding the number of Qualified Work Weeks of Class
16 Members shall be presumed to be correct. Class Members who challenge Defendant’s records
17 must submit a challenge in writing to the Claims Administrator and will bear the burden of
18 proof. All such challenges must be received within the 60-day Claims Period in which Class
19 Members must submit claims. Defendant will investigate the challenge and determine
20 whether any correction to the number of Qualified Work Weeks for the Class Member making
21 the challenge should be made. If any Class Member challenges the Qualified Work Weeks,
22 the Claims Administrator shall notify both counsel for Defendant and counsel for Plaintiff. In
23 no case will a challenge to the number of Qualified Work Weeks result in a payment by
24 Defendant in excess of the Maximum Settlement Amount.

25 G. Opt-Outs/Requests for Exclusion from the Settlement. Class Members who
26 wish to “opt-out” of and be excluded from the Settlement must submit a written Request for
27 Exclusion from the Settlement bearing a post-mark with a date within the Claims Period. The
28 Request for Exclusion must: (1) state the Class Member’s name, address, telephone number

1 and the last four digits of his/her Social Security number, (2) state the case name or some
2 identifying information, (3) state that the Class Member requests exclusion from or “opts out”
3 of the Settlement or words to that effect, (4) be dated, and (5) be signed by the Class Member.
4 If a Class Member submits a Deficient Opt-Out Request, the Claims Administrator shall notify
5 the Class Member of the deficiency within five (5) business days of receipt. The Class
6 Member shall have fifteen (15) days from notice of the deficiencies to cure said deficiencies,
7 at which point his or her Request for Exclusion will be rejected if not received. Mailing a
8 notice of the deficiencies by the Claims Administrator is sufficient if no other contact
9 information is provided by the Class Member. Class Members submitting untimely or
10 Deficient Opt-Out Requests shall be bound by the Settlement and the Class Member Released
11 Claims but will not be considered Qualified Claimants for Settlement Payment distribution
12 purposes unless they have timely returned a void Claim Form. If a Class Member submits
13 both a Claim Form and a Request for Exclusion, the Claims Administrator shall notify the
14 Class Member of the deficiency within five (5) business days of receipt, and the Class Member
15 shall have until fifteen (15) days from notification to clarify his or her submission. Mailing a
16 notice of the deficiency by the Claims Administrator is sufficient if no other contact
17 information is provided by the Class Member. Unless the Class Member responds that he or
18 she wishes to be excluded from the Settlement, such Class Members shall be deemed to be
19 Qualified Claimants. Neither the Parties nor any of their counsel will solicit, encourage, or
20 advise any Class member to submit a Request for Exclusion. Plaintiff Nora Berti agrees to
21 waive any right to opt out of the Settlement.

22 H. Claim Form for the Class Representative. The Class Representative shall
23 automatically be deemed a Qualified Claimant and need not submit a Claim Form to claim his
24 share of the Net Settlement Amount.

25 I. Releases. Class Members who do not return a valid Claim Form and do not
26 return a valid Request for Exclusion within the Claims Period will not receive their Settlement
27 Payment allocation but shall remain subject to the Class Member Released Claims as set forth
28 in this Stipulation.

1 J. Objections to Settlement. Class Members who do not opt out of the Settlement
2 Class may object to the Settlement by mailing written objections to the Settlement Claims
3 Administrator no later than sixty (60) calendar days after the mailing of the Notice Packet.
4 This deadline applies notwithstanding any argument regarding alleged late receipt or non-
5 receipt of the Notice Packet. Any Class Member who fails to timely mail written objections in
6 this manner shall be deemed to have waived any objections and shall be foreclosed from
7 making any objection to the Settlement and from filing any appeal from any order granting
8 final approval issued by the Court. Class Members who timely and validly return a Request
9 for Exclusion from the Settlement shall have no right to object and shall be foreclosed from
10 making any objection to the Settlement. The Settlement Claims Administrator shall promptly
11 provide any such objections to Class Counsel and Defendant's Counsel, who in turn shall file
12 them with the Court in connection with the final approval motion. Written objections must
13 include: (a) the name of the Action, (b) the full name, address, and telephone number of the
14 person objecting; and (c) a written explanation setting forth the specific basis or reason, if any,
15 for each objection, including any legal and factual support the objector wishes to bring to the
16 Court's attention and any evidence the objector wishes to introduce in support of the
17 objection(s). Any Class Member wishing to appear at the final approval hearing to object to
18 the Settlement shall expressly indicate this in his or her written objections. The making of an
19 objection to this Settlement does not affect the Class Members' ability to return a valid Claim
20 Form and become a Qualified Claimant if the Settlement is finally approved.

21 K. Motion for Final Approval of Settlement. Class Counsel shall file and serve
22 their motion for final approval of this Settlement and motion for attorney's fees, litigation
23 costs, and Service Enhancement Payment, along with all supporting evidence, no later than ten
24 (10) calendar days prior to the Final Approval Hearing, unless the Court orders otherwise. At
25 or in connection with the final approval hearing, the Parties shall request that the Court enter
26 an Order entering judgment in accordance with the Settlement, which shall include that all
27 Class Members who have not submitted a valid and timely Request for Exclusion are bound
28 by the Class Member Released Claims as set forth in this Stipulation.

1 V. MISCELLANEOUS PROVISIONS

2 A. Drafting. The Parties hereto agree that the terms and conditions of this
3 Agreement are the result of lengthy, intensive, adversarial negotiations between the Parties and
4 that neither Party shall be considered the “drafter” of this Stipulation for purposes of having
5 terms construed against that Party.

6 B. Cooperation. The Parties agree to cooperate fully with one another to
7 accomplish and implement the terms of this Settlement. The Parties to this Stipulation shall
8 use their best efforts, including all efforts contemplated by this Stipulation and any other
9 efforts that may become necessary by Court order, or otherwise, to effectuate this Stipulation
10 and the terms set forth herein. The Parties agree that they will cooperate and use their best
11 efforts to promptly draft, finalize, and execute the settlement documents. In addition, until the
12 Settlement is finally approved, the Parties will cooperate and use reasonable efforts to
13 effectuate the terms of the Settlement, including but not limited to obtaining the dismissal, or
14 stay of any pending or subsequently-filed class or representative action lawsuit that contains
15 claims or causes of action alleging any of the claims or causes of action contained with the
16 Class Member Released Claims as defined in this Settlement.

17 C. No Retaliation. Defendant understands its legal obligation not to retaliate
18 against Class Members for their participation and/or election to participate in the benefits to be
19 afforded any of them by the Settlement.

20 D. Extensions of Time. If either Party cannot reasonably comply with an obligation
21 under this Stipulation by the deadline set forth herein applicable to that obligation, that Party
22 may apply to the Court for a reasonable extension of time to fulfill that obligation. Consent to
23 such a request for an extension will not be unreasonably withheld by the other Party.

24 E. Entire Agreement. This Agreement constitutes the entire agreement between the
25 Settling Parties hereto and no representations, warranties, or inducements have been made to
26 any Party concerning the Stipulation or its exhibits other than the representations, warranties,
27 and covenants contained and memorialized in such documents. Except as otherwise provided
28 herein, each Party shall bear his or its own costs. Defendant’s complete obligations are

1 detailed herein, and the Settling Parties agree and understand that there shall be no injunctive
2 relief included as part of any term of the Settlement.

3 F. Modification. This Agreement may not be changed, altered, or modified, except
4 in writing signed by counsel for the Parties hereto and approved by the Court. This
5 Agreement may not be discharged except by performance in accordance with its terms or by a
6 writing signed by the Parties hereto. This Stipulation shall be binding upon and inure to the
7 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
8 successors, and assigns.

9 G. Governing Law. The rights and obligations of the Parties hereunder shall be
10 construed and enforced in accordance with, and shall be governed by, the laws of the State of
11 California, without regard to principles of conflict of laws.

12 H. Severability. If any provision of this Stipulation or the application thereof is
13 held invalid, such invalidation shall not affect other provisions or applications of this
14 Stipulation and to this end the provisions of this Stipulation are declared to be severable

15 I. Counterparts. Because the proposed Class has not yet been certified, and the
16 members of the proposed Class are numerous, the Parties agree that it is impossible or
17 impractical to have each Class Member sign this Stipulation. It is agreed that, for purposes of
18 seeking Court approval of the Settlement, this Stipulation may be executed on behalf of the
19 proposed Class by Class Counsel and the Class Representative. This Stipulation shall become
20 effective upon its execution by all of the undersigned. The Settling Parties may execute this
21 Stipulation in any number of counterparts, and a facsimile signature shall have the same force
22 and effect as an original.

23 J. Authority. Each attorney signing below represents that he or she has been
24 authorized to execute this Stipulation on behalf of the attorney's respective client(s). Class
25 Counsel, on behalf of the Settlement Class, represents that, after consultation with and
26 approval by the Class Representative, Class Counsel is expressly authorized by the Class
27 Representative to take all appropriate action required or permitted to be taken by the
28 Settlement Class pursuant to the Stipulation to effect its terms, and also is expressly authorized

1 to enter into any modifications or amendments to the Stipulation on behalf of the Settlement
2 Class which Class Counsel deems appropriate. Similarly, Defendant's counsel represents that
3 it is expressly authorized to take all appropriate action required or permitted to be taken by
4 Defendant pursuant to the Stipulation to effect its terms, and also is expressly authorized to
5 enter into any modifications or amendments to the Stipulation on behalf of Defendant which it
6 deems appropriate.

7 K. Court Jurisdiction. The Parties agree that upon the occurrence of the Effective
8 Date, this Agreement shall be enforceable by the Court and the Court shall retain jurisdiction
9 over the Parties and the Class Members to enforce the terms, conditions and obligations of the
10 Agreement.

11 IN WITNESS WHEREOF, this Stipulation is executed by the Parties and their duly
12 authorized attorneys, as of the day and year herein set forth.

13 Dated: March 11, 2020

14 
ALL STAR SEED
Defendant

15
16 Dated: March 11, 2020

17 
JESUS A. RIOS
Plaintiff

18 APPROVED AS TO FORM:

19
20 Dated: March 11, 2020

JACKSON LEWIS PC

21 By: 
22 SCOTT LACUNZA
23 Attorneys for Defendant
ALL STAR SEED

24 Dated: March 11, 2020

KINGSLEY & KINGSLEY, APC

25 By: 
26 Eric B. Kingsley
27 Liane Katzens Ly
28 Attorneys for Plaintiff and
the Class

EXHIBIT "1"

[CLASS MEMBER NAME]

Jesus A. Rios v. All Star Seed
Superior Court of the State Of California, County of Imperial
Case No.: ECU08770

If you are a current or former hourly employee All Star Seed (“All Star” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT
INFORMATION ABOUT YOUR RIGHTS.**

- This lawsuit involves a certified class defined as:

all individuals who have been employed, or are currently employed, by Defendant All Star Seed as “hourly employees” or similar titles, from July 28, 2011 to June 30, 2018 who were mailed class notice and did not opt out.
- On September 27, 2018, Notice was mailed to you informing you of the fact that the Court had certified two subclasses and giving you the opportunity to opt out of this class action.
- Plaintiffs in this class action allege that All Star failed to pay all wages and overtime, failed to provide legally-compliant meal periods, failed to pay premium pay for missed, late, or interrupted meal breaks, failed to pay final wages in a timely manner, violated California Business and Professions Code section 17200 (Unfair Competition Law), and is liable for penalties under California’s Private Attorneys General Act or “PAGA”. All Star denies Plaintiffs’ claims, and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your legal rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiffs’ claims or Defendant’s defenses.
- You have several options available to you:

MAKE A CLAIM	By fully filling out the Claim Form provided with this Notice and by returning that claim form in a timely manner, you will receive your share of the settlement proceeds, and you will give up any rights to sue All Star separately regarding all causes of action that were alleged in the Complaint as well as any other claims that
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	could have been brought based on the specific facts alleged in the Complaint.
DO NOTHING	By doing nothing, you will not receive a share of the settlement proceeds, and you will give up any rights to sue All Star separately regarding all causes of action that were alleged in the Complaint as well as any other claims that could have been brought based on the specific facts alleged in the Complaint.
ASK TO BE EXCLUDED (OPT OUT)	Get out of this lawsuit. Get no benefits from the Settlement. Keep rights. If you ask to be excluded, you will not receive a share of the settlement proceeds, but, you keep any rights you may have to sue All Star separately about the same legal claims in this lawsuit.
OBJECT	Object to the terms of this Settlement.

Your options are explained in this notice.

To object, you must act by XXXXX.

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of All Star's hourly non-exempt employees. You have received this notice because you are a certified Class Member. You received notice that the class was certified in September 2018.

2. What is this lawsuit about?

This action was filed on June 18, 2015 on behalf of hourly employees employed by All Star in the State of California. The operative complaint alleges class-wide causes of action against All Star for (1) failure to pay wages and overtime, (2) failure to provide meal periods, (3) failure to provide accurate itemized wage statements, (4) waiting time penalties, (5) violations of the Business and Professions Code, and (6) PAGA violations and penalties.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendant's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience and expense of further litigation. This case was filed over four years ago and extensive litigation has occurred. Plaintiff and his attorneys believe the proposed settlement is fair, adequate and in the best interest of the Class Members given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, the uncertainty in the law governing some of the claims presented, and the risk of future appeals and possible bankruptcy. Although Defendant

disputes Plaintiff's claims and asserts that they have complied with all of their legal obligations toward their employees, Defendant has also concluded that further litigation would be protracted and expensive and would also divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The gross settlement amount is \$1,000,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys' fees: \$350,000.00
- Costs of Suit: \$70,000.00
- Settlement Administration Expenses: \$25,000.00
- Service Fee to Class Representative: \$12,000.00
- Penalties to the Labor & Workforce Development Agency: \$10,000.00 (\$7,500 to the State and \$2,500.00 to remain in the Net Settlement Fund)

After these deductions, \$535,500.00 will be available for payment to the Class Members ("Net Settlement Fund").

Each Class Member's Settlement Award shall be determined on a pro rata basis based on the number of work weeks worked by the Class Member during the Class Liability Period. To determine each Class Member's pro rata share of the Net Settlement Fund, his or her weeks worked during the Class Liability Period will be divided by the total number of weeks worked by all Class Members during the Class Liability Period.

Each Class Member's Amount will be allocated as 20% wages, meaning that it will be taxed as if you earned this amount as wages. Meanwhile, 80% will be allocated as non-economic damages, such as penalties and interest. The 80% portion is not subject to withholding. All Star will pay the employer's share of payroll taxes arising from the settlement awards separately.

According to All Star's records, the total number of weeks that you worked as an employee *from* July 28, 2011 to June 30, 2018 is _____. If you disagree with this information and would like someone to look into the matter, please follow the procedure below. Based on these work weeks, your estimated settlement amount is _____.

6. What if I disagree with the number of work weeks shown above?

If you believe the information in the notice is incorrect regarding the number of work weeks, you will need to write a letter setting forth the number of work weeks that you believe are correct. You may attach any relevant documentation in support thereof. You must mail your letter to:

ALL STAR CLAIMS ADMINISTRATOR
c/o XXXXXX

You must submit such information by XXXX. Class Counsel, Counsel for All Star, and the Claims Administrator will work together in good faith and do their best to promptly resolve the dispute based upon available records. In the event they are unable to resolve any dispute under this Section, the Claims Administrator shall review all information, material and documents and make a decision regarding the dispute.

7. What do I have to do to receive my share of the settlement?

If you wish to receive an award under the terms of this settlement, you **MUST FULLY AND COMPLETELY** FILL OUT THE CLAIM FORM and file it no later than XXXX. You will be covered by the release summarized in Section **XX**, below.

8. What rights am I giving up?

The claims you will Release by doing nothing are: all causes of action that were alleged in the Complaint as well as any other claims that could have been brought based on the specific facts alleged in the Complaint, which include: (i) failure to pay wages and overtime (Labor Code sections 510, 1194, 1199); (ii) failure to provide meal periods (Labor Code sections 226.7 and 512); (iii) failure to provide accurate itemized wage statements (Labor Code section 226(a)); (iv) failure to pay wages on termination (Labor Code section 203); (v) unfair business practices in violation of Business & Professions Code § 17200 et seq. which arise from the specific factual allegations of the Complaint; and (vi) violations of the Private Attorney General's Act ("PAGA"), Labor Code § 2698 et seq. which arise from the specific factual allegations of the Complaint, and any other claim arising from the facts alleged in the Complaint related to wages, hours, benefits, working conditions, compensation, whether arising from the laws of the United States, California or any other state, any local government, or any foreign nation, except those claims excluded by this paragraph. The Released Claims only cover claims arising or accruing prior to or during the Class Period. As of the Effective Date, each Plaintiff and each Settlement Class Member shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims. The Released Claims do not include: (1) claims for Workers' Compensation, (2) claims for unemployment or disability payments, (3) claims for discrimination, retaliation or harassment under Title VII or California's Fair Employment and Housing Act, or (4) tort claims unrelated to wages, employment, hours, benefits, working conditions, or compensation, or (5) any claims that cannot be released as a matter of law.

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself ("opt out") by completing, signing and mailing a Request for Exclusion letter by XXXX to the Claims Administrator whose information is below. This Notice also includes the information for Class Counsel.

<u>To Class Counsel:</u> Eric B. Kingsley, Esq. Liane Katzenstein Ly, Esq. Kingsley & Kingsley, APC	<u>To Claims Administrator:</u>
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16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300 Fax: (818) 990-2903	
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If your Request for Exclusion is postmarked after XXX, it will be rejected, and you will be a Class Member and be bound by the settlement terms.

To be valid, any Request for Exclusion must state substantially the following: "I do not want to be included in the All Star class action settlement described in the notice that I received." You must also state your full name, address, and the last four digits of your social security/taxpayer identification number on file with All Star for proper identification purposes. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Class Member and will not receive any payment as part of this settlement. Such persons will keep any rights to sue All Star separately about the claims made in this lawsuit.

10. What if I have an objection?

A class member may object to the settlement in writing by mailing their reasons for objecting to the Claims Administrator by XXXXX. Any class member who mails a written objection in a timely manner may appear at the Final Approval Hearing. The Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval hearing to present his or her objection directly to the Court. Any attorney who will represent an individual objecting to this Settlement must file a notice of appearance with the Judge no later _____. The Final Approval and Fairness Hearing will be held in Dept. 7 of the Imperial County Superior Court, [address to be inserted] on _____, 2012, at XXX. (Pacific Time).

11. Do I need a lawyer?

You do not need to hire your own lawyer, because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 7 of the Imperial County Superior Court, [address to be inserted] on _____, 2019, at XXX. (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiffs' service awards, and the costs of the claims administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I receive more information?

This notice is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review the detailed "Settlement Agreement" on file with

the Clerk of the Court. The pleadings and other records in this litigation may be examined at any time during regular business hours at the Office of the Clerk of the Imperial County Superior Court, [address to be inserted].

For further information, you may also telephone the All Star Administrator, XXXXX (listed above), or Class Counsel (listed above).

Please do not telephone the Court, the Office of the Clerk, or All Star's counsel for information regarding this settlement.

EXHIBIT "2"

[CLASS MEMBER NAME]

Jesus A. Rios v. All Star Seed
Superior Court of the State Of California, County of Imperial
Case No.: ECU08770

IN ORDER TO BE ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT,
YOU MUST LEGIBLY COMPLETE, SIGN, POSTMARK, AND MAIL THIS CLAIM FORM
ON OR BEFORE _____, 2019, ADDRESSED AS FOLLOWS:

MAIL TO:

All Star Claims Administrator
c/o XXX
[ADDRESS]
[CITY, STATE, ZIP CODE]

INCOMPLETE AND/OR LATE CLAIM FORMS WILL BE REJECTED

INSTRUCTIONS:

1. You must legibly complete, sign and mail this Claim Form in order to be eligible for a monetary recovery. Your Claim Form must be postmarked on or before the referenced date above, or it will be rejected. Your Claim Form must be filled out completely, or it will be rejected.
2. If you move, please send the Claims Administrator your new address. It is your responsibility to keep a current address on file with the Claims Administrator.
3. You should retain a copy of your postmarked Claim Form.
 - According to All Star's records, the number of work weeks worked by you between July 28, 2011 to June 30, 2018 as a non-exempt employee are _____.

If you disagree with the information as stated above, please explain why and provide the number of work weeks you contend are correct.

If you disagree with the above information from All Star's records, the attorneys on both sides of this case will work together in good faith and do their best to promptly resolve the dispute based upon available records. All Star's records are presumed accurate so you will need to provide documentation or evidence to support your dispute.

My signature below constitutes a full and complete release by me of All Star, and each of its past, present, and future parents, subsidiaries, divisions, entities under common control, affiliates, and their respective past, present, and future officers, directors, employees, partners, shareholders, investors, members, owners, consultants, agents, vendors, affiliates, insurers, legal representatives, financial advisors, and all of their successors (including persons or entities who may acquire them in the future), assigns, representatives, heirs, executors, and administrators and all other persons acting by, through, under or in concert with them that could be liable for all causes of action that were alleged in the Complaint as well as any other claims that could have been brought based on the specific facts alleged in the Complaint, which include: (i) failure to pay wages and overtime (Labor Code sections 510, 1194,

1199); (ii) failure to provide meal periods (Labor Code sections 226.7 and 512); (iii) failure to provide accurate itemized wage statements (Labor Code section 226(a)); (iv) failure to pay wages on termination (Labor Code section 203); (v) unfair business practices in violation of Business & Professions Code § 17200 et seq. which arise from the specific factual allegations of the Complaint; and (vi) violations of the Private Attorney General's Act ("PAGA"), Labor Code § 2698 et seq. which arise from the specific factual allegations of the Complaint, and any other claim arising from the facts alleged in the Complaint related to wages, hours, benefits, working conditions, compensation, whether arising from the laws of the United States, California or any other state, any local government, or any foreign nation, except those claims excluded by this paragraph. The Released Claims only cover claims arising or accruing prior to or during the Class Period. As of the Effective Date, each Plaintiff and each Settlement Class Member shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims. The Released Claims do not include: (1) claims for Workers' Compensation, (2) claims for unemployment or disability payments, (3) claims for discrimination, retaliation or harassment under Title VII or California's Fair Employment and Housing Act, or (4) tort claims unrelated to wages, employment, hours, benefits, working conditions, or compensation, or (5) any claims that cannot be released as a matter of law.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

X

(Sign your name here)

Date

(Print Name Clearly)

Telephone Number