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 BLUE LINE FOODSERVICE DISTRIBUTION,
 INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

CARLOS MUNGUIA and JOSE ESQUIVEL, as
 individuals and on behalf of all others similarly
 situated, and as private attorneys general,

Plaintiffs,

vs.

BLUE LINE FOODSERVICE DISTRIBUTION,
 INC., a Michigan corporation; and DOES 1
 through 50, inclusive

Defendants.

Case No. 30-2020-01157719-CU-OE-CXC

AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE OF CLAIMS

Assigned for all purposes to The Honorable
 Glenda Sanders, Dept. CX101

Action Filed: August 28, 2020
 Trial Date: None Set

IT IS HEREBY STIPULATED, by and between Plaintiffs Carlos Munguia and Jose Esquivel (“Plaintiffs”), individually and on behalf of the Settlement Class, and Defendant Blue Line Foodservice Distribution, Inc. (“Defendant”), and subject to the approval of the Court, that the Action is hereby compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (“Agreement”) and that the Court shall make and enter judgment subject to the definitions, recitals and terms set forth herein which by this reference become an integral part of this Agreement.

I. DEFINITIONS

1. “Action” or “Lawsuit” means the civil action entitled *Carlos Munguia et al. v. Blue Line Foodservice, Inc.*, filed on August 28, 2020, in the Superior Court of the State of California for the County of Orange, and assigned Case No. 30-2020-0115719-CU-OE-CXC.
2. “Agreement” means this Joint Stipulation of Class Action and PAGA Settlement and Release of Claims.
3. “Class” means all individuals who fit into either of the following subclasses, which are defined herein: the Regular Rate Subclass and the Wage Statement Subclass. A Class Member could be part of either one or both subclasses. Based on Defendant’s records, there are approximately 137 individuals who may comprise the Class as of May 6, 2021.
4. “Class Counsel” means Diversity Law Group, P.C. and Polaris Law Group.
5. “Class Counsel Award” means an award of attorneys’ fees and reimbursement of litigation expenses and costs granted to Class Counsel and paid from the Maximum Settlement Amount.
6. “Class Data” means information regarding Class Members that Defendant will compile from its available, existing, electronic records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: (i) each Class Member’s full name; (ii) each Class Member’s last known address; (iii) each Class Member’s last known telephone number; (iv) each Class

Member's Social Security number; (v) payroll records for each Class Member sufficient to allow the Settlement Administrator to determine whether the Class Member qualifies as a Regular Rate Class Member and/or a Wage Statement Class Member, and whether the Class Member qualifies as a PAGA Group Member; (vi) dates of employment in a non-exempt position with Defendant during the Covered Period, sufficient to allow the Settlement Administrator to calculate the number of Qualified Workweeks for each Class Member.

7. "Class Member" means each person eligible to participate in this Settlement who is a member of the Class defined above.
8. "Class Representative Service Awards" means the amount that the Court authorizes to be paid to Plaintiffs from the Maximum Settlement Amount, in addition to their Individual Settlement Payments and Individual PAGA Payments, in recognition of their efforts and risks in assisting with the prosecution of the Action and in exchange for executing a General Release of Defendant.
9. "Class Representatives" means the named Plaintiffs in this lawsuit, Carlos Munguia and Jose Esquivel.
10. "Court" means the Superior Court for the State of California, County of Orange.
11. "Covered Period" means April 6, 2016 through the earlier of September 1, 2021 or the Preliminary Approval Date.
12. "Defendant" means Blue Line Foodservice Distribution, Inc.
13. "Defense Counsel" shall mean Gregory C. Cheng and Carolyn B. Hall of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., One Embarcadero Center, Suite 900, San Francisco, California 94111.
14. "Effective Date" shall be the later of the following: (i) If no objections to the settlement have been filed, or the timely objections have been filed and then withdrawn, then the date the Court enters judgment granting Final Approval; (ii) If an objection to the settlement has been filed, then the date on which time expires to file an appeal of the Court's grant of Final Approval of settlement, unless a timely

1 appeal is filed; or (iii) if an objection was filed and a Notice of Appeal of the
2 Court's grant of Final Approval of settlement was timely filed, then the date the
3 appeal is finally resolved, with the final approval unaffected.

4 15. "Employer's Share of Payroll Taxes" means Defendant's portion of payroll taxes
5 including, but not limited to FICA and FUTA, on the portion of the Individual
6 Settlement Payments that constitute wages, as calculated by the Settlement
7 Administrator and to be paid from the Maximum Settlement Amount.

8 16. "Exclusion Form" means the Election Not To Participate In Class Action Settlement
9 form, in a form substantially similar to the form attached hereto as Exhibit 2, which
10 the Settlement Administrator will mail to Class Members as part of the Notice
11 Packet.

12 17. "Final Approval Order" means the Court's order granting final approval of the
13 Settlement.

14 18. "Individual PAGA Payment" means the amount payable from the PAGA Settlement
15 Amount to each PAGA Group Member.

16 19. "Individual Settlement Payment" means the amount payable from the Net
17 Settlement Amount to each Settlement Class Member.

18 20. "Maximum Settlement Amount" means \$250,000.00, which sum includes all
19 payments contemplated by this Agreement, including but not limited to: the
20 Individual Settlement Payments, the Class Representative Service Awards, the Class
21 Counsel Award, the PAGA Payment (including all Individual PAGA Payments),
22 Employer's Share of Payroll Taxes, and the Settlement Administration Costs. This
23 is a non-reversionary settlement. Except as stated in this Agreement, in no event
24 shall Defendant be liable for more than \$250,000.00 as a result of this Settlement.

25 21. "Net Settlement Amount" or "NSA" means the Maximum Settlement Amount, less
26 the Class Counsel Award, Class Representative Service Awards, PAGA Payment,
27 Employer's Share of Payroll Taxes, and the Settlement Administration Costs.
28

- 1 22. “Notice Packet” means the court-approved Notice of Class Action and PAGA
2 Settlement in a form substantially similar to the form attached hereto as Exhibit 1,
3 which the Settlement Administrator shall mail to the Class Members along with the
4 Exclusion Form and the Objection Form, in accordance with the terms of this
5 Agreement.
- 6 23. “Objection Form” means the Notice of Objection Form, in a form substantially
7 similar to the form attached hereto as Exhibit 3, which the Settlement Administrator
8 will mail to Class Members as part of the Notice Packet.
- 9 24. “PAGA” means the California Labor Code Private Attorneys General Act of 2004.
- 10 25. “PAGA Payment” or “PAGA Settlement” means the amount of Twenty-Five
11 Thousand Dollars (\$25,000.00), subject to Court approval, to be paid from the
12 Maximum Settlement Amount for satisfaction of Plaintiffs’ and Class Members’
13 claims under PAGA. Pursuant to PAGA, seventy-five percent (75%), or Eighteen
14 Thousand Seven Hundred Fifty Dollars (\$18,750) of this sum will be paid to the
15 LWDA. The remaining twenty-five percent (25%) or Six Thousand Two Hundred
16 Fifty Dollars (\$6,250.00) will be distributed as Individual PAGA Payments in
17 accordance with this Settlement.
- 18 26. “Parties” means Plaintiffs and Defendant, collectively, and “Party” shall mean either
19 Plaintiffs or Defendant, individually.
- 20 27. “Plaintiffs” shall mean the named Plaintiffs in this action, Carlos Munguia and Jose
21 Esquivel.
- 22 28. “Preliminary Approval Date” means the date the Court enters an order granting
23 preliminary approval of the Settlement.
- 24 29. “PAGA Group Member” means a Class Member who was employed by Defendant
25 at any time during the PAGA Period. PAGA Members will release all of the PAGA
26 Released Claims upon any final judgment entered in this Action.
- 27 30. “PAGA Notices” means the August 25, 2020 and August 31, 2020 letters that
28 Plaintiff Esquivel sent to the LWDA pursuant to Labor Code §2699.3 seeking to

1 exhaust Plaintiffs' administrative remedies under PAGA, Cal. Lab. Code §§ 2698,
2 *et seq.*

3 31. "PAGA Period" means April 6, 2019 to the earlier of September 1, 2021 or the
4 Preliminary Approval Date.

5 32. "PAGA Released Claims" means any and all claims for recovery of civil penalties
6 and attorneys' fees and costs permissible under PAGA which Plaintiffs and/or the
7 PAGA Group Members had, or may claim to have, against the Released Parties
8 during the PAGA Period, arising from or related to the same set of operative facts as
9 those alleged in the Action, or in the PAGA Notices, including: (a) failure to pay
10 overtime; (b) failure to pay sick pay at proper rates; (c) failure to provide complete
11 and accurate wage statements; (d) failure to timely pay wages on termination; and
12 (e) violations of Labor Code Sections 201, 202, 203, 204, 210, 218, 218.5, 218.6,
13 226, 226.3, 233, 246, 248.5, 510, 558, 1194, 1198, and the applicable IWC Wage
14 Order.

15 33. "Qualified Settlement Fund" or "QSF" means the qualified settlement fund set up
16 by the Settlement Administrator into which Defendant shall deposit the Maximum
17 Settlement Amount and from which the Settlement Administrator shall make the
18 disbursements called for by the terms of this Agreement.

19 34. "Qualified Workweeks" means the total number of weeks actually worked by each
20 Class Member during the Covered Period in which the Class Member either (i) was
21 paid overtime wages or (ii) earned both sick pay and non-discretionary
22 compensation. The Settlement Administrator will calculate the number of Qualified
23 Workweeks for each Class Member. The Settlement Administrator will have sole
24 and exclusive responsibility for calculating the number of Qualified Workweeks.

25 35. "Regular Rate Subclass" means all current and former non-exempt employees of
26 Defendant in the State of California who earned overtime wages or sick pay and
27 non-discretionary compensation in the same workweek at any time from April 6,
28 2016 through the earlier of September 1, 2021 or the date of Preliminary Approval.

- 1 36. “Released Claims” means all causes of action based on the factual or legal theories
2 alleged in the Action, or that reasonably could have been raised in the Action,
3 including all of the following legal claims: (a) any and all claims for unpaid or
4 underpaid overtime wages; (b) any and all claims for failure to pay sick pay at
5 proper rates; (c) any and all claims for improper or inaccurate itemized wage
6 statements, including any alleged violations of Labor Code Section 226(a)(1)-(9)
7 based on the facts and legal theories contained in the Action, and including claims
8 for injuries suffered therefrom; (d) any and all claims for the untimely payment of
9 final wages and associated waiting time penalties under Labor Code Section 203
10 based on the facts, claims, causes of action, or legal theories alleged in the Action,
11 (e) any and all claims under the Business & Professions Code (including Section
12 17200 *et seq.*) premised on the facts, claims, or legal theories described herein or in
13 the Action; (e) any other claims or penalties under the wage and hour laws pleaded
14 in the Action; and (f) all damages, penalties, interest and other amounts recoverable
15 under said causes of action under California and federal law, to the extent
16 permissible, including but not limited to the California Labor Code and the
17 applicable Wage Orders as to the facts and theories alleged in the Action. The
18 period of the Release shall extend to the limits of the Covered Period. To the extent
19 permitted by law, the *res judicata* effect of the Judgment will be the same as that of
20 the Release; and the definition of Released Claims shall not be limited in any way
21 by the possibility that Plaintiffs or Settlement Class Members may discover new
22 facts, legal theories, or legal arguments not alleged in the operative complaint but
23 which might serve as an alternative basis for pursuing the same claims, causes of
24 action, or legal theories of relief falling within the definition of Released Claims.
- 25 37. “Released Parties” shall mean Defendant Blue Line Foodservice Distribution, Inc.
26 and all its past, present and/or future, direct and/or indirect, officers, directors,
27 members, managers, employees, agents, representatives, attorneys, insurers,
28 partners, investors, shareholders, franchisees, administrators, parent companies,

1 subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint
2 venturers, and all persons acting under, by, through, or in concert with any of them,
3 and each of them.

4 38. "Response Deadline" means the date sixty (60) days after the Settlement
5 Administrator mails Notice Packets to Class Members and the last date on which
6 Class Members may submit requests for exclusion or objections to the settlement.

7 39. "Settlement" means the disposition of the Action pursuant to this Agreement.

8 40. "Settlement Administrator" means Phoenix Settlement Administrators.

9 41. "Settlement Class Members" means all Class Members that do not submit a valid
10 Exclusion Form. Settlement Class Members will release all of the Released Claims
11 and will be bound by all terms of the Settlement and any final judgment entered in
12 this Action.

13 42. "Wage Statement Subclass" means all current and former non-exempt employees of
14 Defendant in the State of California who were paid overtime wages at any time from
15 April 6, 2019 through the earlier of September 1, 2021 or the date of Preliminary
16 Approval.

17 II. RECITALS

18 43. Class Certification. The Parties stipulate and agree to certification for purposes of
19 this Agreement only. This Agreement is subject to the approval of the Court and is
20 made for the sole purpose of consummating settlement of the Action. Should the
21 Agreement not become a final and effective Settlement as herein provided, class
22 certification shall immediately be set aside and the Settlement Class immediately
23 decertified (subject to further proceedings on motion of any party to certify or deny
24 certification thereafter). The Parties' willingness to stipulate to class certification as
25 part of the Agreement shall have no bearing on, and shall not be admissible in or
26 considered in connection with, the issue of whether a class should be certified in a
27 non-settlement context in this Action and shall have no bearing on, and shall not be
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admissible or considered in connection with, the issue of whether a class should be certified in any other lawsuit.

44. Procedural History. On August 25, 2020 and August 31, 2020, Plaintiff Esquivel sent the PAGA Notices. On August 28, 2020, Plaintiffs filed a putative class action Complaint, invoking Emergency Rule 12, asserting claims against Defendant for alleged violations of the California Labor Code, including (a) Wage Statement Violations and (b) civil penalties under PAGA, and claims for interest, attorneys' fees and costs. On September 24, 2020, Plaintiffs filed a First Amended Class and Representative Action Complaint adding claims for failure to pay all overtime wages due.

45. Mediation. On May 6, 2021, the Parties participated in a private mediation with Mark Peters, Esq., a well-respected mediator with considerable experience mediating wage and hour class actions. This took place only after the Parties exchanged extensive informal mediation data. The mediation and subsequent negotiations resulted in this Agreement to resolve this Action in its entirety.

46. Benefits to Settlement Class Members. Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to litigate their disputes through trial and through any possible appeals. Plaintiffs have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's defenses thereto. Based on the foregoing, Plaintiffs and Class Counsel have determined that the terms set forth in this Agreement are a fair, adequate, and reasonable settlement, and are in the best interests of Class Members.

47. Defendant's Reasons for Settlement. Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time and resources have been and, unless this

1 Agreement was made, would continue to be devoted to the defense of the claims
2 asserted by Plaintiffs and Class Members. Defendant has also taken into account
3 the risks of further litigation in reaching its decision to enter into this Agreement.
4 Despite continuing to contend that it is not liable for any of the claims set forth by
5 Plaintiffs, Defendant has, nonetheless, agreed to settle in the manner and upon the
6 terms set forth in this Agreement to put to rest the claims as set forth in the Action.

7 48. Class Members' Claims. The Class Representatives claim that their allegations
8 have merit and give rise to liability on the part of Defendant. This Agreement is a
9 compromise of disputed claims. The monies being paid as part of the settlement are
10 genuinely disputed and the Parties agree that the provisions of Labor Code section
11 206.5 are not applicable to this settlement. Nothing contained in this Agreement
12 and no documents referred to herein and no action taken to carry out this Agreement
13 may be construed or used as an admission by or against the Class Members or Class
14 Counsel as to the merits or lack thereof of the claims asserted.

15 49. Defendant's Defenses. Defendant claims that the Released Claims have no merit
16 and do not give rise to liability. This Agreement is a compromise of disputed
17 claims. The monies being paid as part of the settlement are genuinely disputed and
18 the Parties agree that the provisions of Labor Code section 206.5 are not applicable
19 to this settlement. Nothing contained in this Agreement and no documents referred
20 to herein and no action taken to carry out this Agreement may be construed or used
21 as an admission by or against Defendant as to the merits or lack thereof of the
22 claims asserted.

23 **III. TERMS OF AGREEMENT**

24 50. Settlement Consideration by Defendant. Defendant shall pay the monetary sums as
25 specified in this Agreement, up to the Maximum Settlement Amount.

26 51. Second Amended Complaint. As a condition of settlement, Plaintiffs have filed, or
27 will have filed, a Second Amended Complaint ("SAC") to conform the pleadings
28 with the scope of the Settlement and Released Claims, and to include allegations

1 regarding Defendant's purported failure to pay sick leave pay at proper rates.
2 Plaintiffs have also served an amended PAGA letter upon the LWDA. Defendant
3 will not be required to file an answer or other responsive pleading to the SAC. If, for
4 any reason, the Court does not grant final approval of the Settlement, or if the
5 Settlement does not become final and effective for any reason, then the SAC will be
6 deemed withdrawn and the First Amended Complaint will again become the
7 operative complaint without prejudice to Plaintiffs' right to seek leave to file
8 another amended complaint. Defendant does not impliedly or expressly waive any
9 arguments or defenses to the SAC.

10 52. Limited Release by All Settlement Class Members. As of the Effective Date, all
11 Settlement Class Members will be bound by a limited Section 1542 waiver that
12 releases all claims against Defendant, whether known or unknown, within the
13 definition of "Released Claims" (above). However, to be clear, the scope of the
14 Section 1542 waiver is limited to the Released Claims. Plaintiffs and the Settlement
15 Class Members may hereafter discover facts or legal arguments in addition to or
16 different from those they now know or currently believe to be true with respect to
17 the claims, causes of action and legal theories of recovery in this Action.
18 Regardless, the discovery of new facts or legal arguments shall in no way limit the
19 scope or definition of the Released Claims, and by virtue of this Agreement,
20 Plaintiffs and the Settlement Class Members shall be deemed to have, and by
21 operation of the final judgment approved by the Court, shall have fully, finally, and
22 forever settled and released all of the Released Claims. The parties understand and
23 specifically agree that the scope of the release described in this Paragraph is a
24 material part of the consideration for this Agreement; was critical in justifying the
25 agreed upon economic value of this settlement and without it Defendant would not
26 have agreed to the consideration provided; and is narrowly drafted and necessary to
27 ensure that Defendant is obtaining peace of mind regarding the resolution of claims
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1 that were or could have been alleged based on the facts, causes of action, and legal
2 theories contained in Plaintiffs' Complaint.

3 53. PAGA Release by All PAGA Group Members. All PAGA Group Members shall be
4 deemed to have released the Released Parties of and from the PAGA Released
5 Claims. PAGA Group Members will not have an opportunity to opt out of, or object
6 to, the PAGA Settlement. PAGA Group Members are bound by the PAGA
7 Settlement and PAGA Released Claims regardless of whether they opt out of the
8 Class Settlement and regardless of whether they cash or otherwise negotiate their
9 Individual PAGA Payment.

10 54. General Release by Plaintiffs. As of the Effective Date, in consideration for the
11 consideration set forth in this Agreement, each Plaintiff, for himself and his heirs,
12 successors and assigns, hereby waive, release, acquit and forever discharge the
13 Released Parties, from any and all claims, actions, charges, complaints, grievances
14 and causes of action, of whatever nature, whether known or unknown, which exist
15 or may exist on each Plaintiff's behalf as of the date of this Agreement, including
16 but not limited to any and all tort claims, contract claims, wage claims, wrongful
17 termination claims, disability claims, benefit claims, public policy claims, retaliation
18 claims, statutory claims, personal injury claims, emotional distress claims, invasion
19 of privacy claims, defamation claims, fraud claims, quantum meruit claims, and any
20 and all claims arising under any federal, state or other governmental statute, law,
21 regulation or ordinance, including, but not limited to claims for violation of the Fair
22 Labor Standards Act, the California Labor Code, the Wage Orders of California's
23 Industrial Welfare Commission, other state wage and hour laws, the Americans with
24 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the
25 Employee Retirement Income Security Act, Title VII of the Civil Rights Act of
26 1964, the California Fair Employment and Housing Act, the California Family
27 Rights Act, the Family Medical Leave Act, California's Whistleblower Protection
28 Act, California Business & Professions Code Section 17200, *et seq.*, and any and all

claims arising under any federal, state or other governmental statute, law, regulation or ordinance. Plaintiffs hereby expressly waive and relinquish any and all claims, rights or benefits that each may have under California Civil Code § 1542, which provides as follows: “*A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.*” Plaintiffs may hereafter discover claims or facts in addition to, or different from, those which he now knows or believes to exist, but they expressly agree to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiffs’ employment with Defendant. The Parties further acknowledge, understand and agree that this representation and commitment is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation and commitment.

55. ADEA Waiver for Both Plaintiffs. Without limiting the scope of this Agreement, Plaintiffs agree that this Agreement constitutes a knowing and voluntary waiver of any and all rights or claims that exist or that each may claim to have under the Age Discrimination in Employment Act (“ADEA”), as amended by the Older Workers’ Benefit Protection Act of 1990 (29 U.S.C. § 621 et seq.). Plaintiffs acknowledge all of the following:

- a. The consideration provided pursuant to this Agreement, including any Class Representative Service Awards, is in addition to any consideration that Plaintiffs would otherwise be entitled to receive;
- b. Plaintiffs have been and are advised in writing to consult with an attorney prior to signing this Agreement;

- 1 c. Plaintiffs have been provided a full and ample opportunity to study this Agreement,
2 including a period of at least twenty-one (21) calendar days within which to
3 consider it;
- 4 d. To the extent that Plaintiffs take fewer than twenty-one (21) calendar days to
5 consider this Agreement prior to signing it, each Plaintiff acknowledges that he had
6 sufficient time to consider this Agreement with legal counsel and that he expressly,
7 voluntarily, and knowingly waives the full twenty-one (21) calendar-day period;
- 8 e. Plaintiffs each agree that any changes made to the Agreement during the twenty-
9 one (21) day period (whether material or immaterial) do not restart the running of
10 the twenty-one (21) day period; and
- 11 f. Plaintiffs are each aware of his right to revoke this waiver of claims under the
12 ADEA any time within the seven (7) calendar-day period following the date of full
13 execution of this Agreement and that the waiver of claims under the ADEA shall
14 not become effective or enforceable until the seven (7) calendar-day revocation-
15 period expires. Should either or both Plaintiffs revoke the waiver of claims under
16 the ADEA, the revoking Plaintiff shall not request, and will not be entitled to
17 receive, his Class Representative Service Award referred to in paragraph 64.h,
18 although the remainder of the terms of this Agreement shall become effective and
19 enforceable as of the date the Parties sign this Agreement.
- 20 g. To be effective, timely notice of revocation of the waiver of ADEA claims must be
21 made in writing and delivered to Defendant through its counsel, Gregory C. Cheng,
22 Esq., at Ogletree Deakins Nash Smoak & Stewart, P.C., One Embarcadero Center,
23 Suite 900, San Francisco, California 94111, no later than the eighth (8th) day after
24 the date of Preliminary Approval (“Revocation Period”). If mailed, the revocation
25 must be properly addressed to the above addressee and postmarked no later than the
26 last day of the Revocation Period. If Plaintiffs do not revoke acceptance of this
27 Agreement within the Revocation Period, each Plaintiff’s acceptance of this
28 Agreement shall become binding and enforceable on the eighth (8th) day after the

1 date of Preliminary Approval. The revoking Plaintiff agrees to keep written
2 documentation proving that he revoked this Agreement as provided in this
3 paragraph, either by keeping the documents attesting to the delivery of the
4 revocation, or verification that the revocation was, in fact, received. In the event
5 either Plaintiff revokes the waiver of ADEA claims, the revoking Plaintiff
6 understands and agrees that he will not be entitled to a Class Representative Service
7 Award but shall not have the right to revoke the Settlement, and it will remain
8 binding.

9 56. Conditions Precedent: This Settlement will become final and effective only upon
10 the occurrence of all of the following events:

- 11 a. The Court enters an order granting preliminary approval of the Settlement;
- 12 b. The Court enters an order granting final approval of the Settlement and a
13 Final Judgment;
- 14 c. The Final Effective Date occurs; and
- 15 d. Defendant does not invoke its right to revoke the Agreement as described in
16 Paragraph 67.c (“Defendant’s Option to Revoke Settlement”) herein.

17 57. Nullification of Agreement. In the event that this Agreement is not preliminarily or
18 finally approved by the Court, fails to become effective, or is reversed, withdrawn
19 or materially modified by the Court, or in any way prevents or prohibits Defendant
20 from obtaining a complete resolution of the claims as described herein:

- 21 a. This Agreement shall be void ab initio and of no force or effect, and shall
22 not be admissible in any judicial, administrative or arbitral proceeding for
23 any purpose or with respect to any issue, substantive or procedural;
- 24 b. The conditional class certification (obtained for any purpose) shall be void
25 ab initio and of no force or effect, and shall not be admissible in any judicial,
26 administrative or arbitral proceeding for any purpose or with respect to any
27 issue, substantive or procedural; and
28

1 c. None of the Parties to this Agreement will be deemed to have waived any
2 claims, objections, defenses or arguments in the Action, including with
3 respect to the issue of class certification.

4 58. Certification of the Class for Settlement Purposes. The Parties stipulate to
5 conditional class certification of the Class for the Class Period for purposes of
6 settlement only and only as follows:

7 a. Plaintiffs Carlos Munguia and Jose Esquivel shall be appointed as Class
8 Representatives.

9 b. The Parties stipulate that Larry W. Lee and Simon L. Yang of Diversity Law
10 Group, P.C. and William L. Marder of Polaris Law Group shall be appointed
11 Class Counsel.

12 c. In the event that this Agreement is not approved by the Court, fails to
13 become effective, or is reversed, withdrawn or materially modified by the
14 Court, or in any way prevents or prohibits Defendant from obtaining a
15 complete resolution of the claims as described herein, the conditional class
16 certification (obtained for any purpose) shall be void ab initio and of no
17 force or effect, and shall not be admissible in any judicial, administrative or
18 arbitral proceeding for any purpose or with respect to any issue, substantive
19 or procedural.

20 59. Tax Liability. The Parties make no representations as to the tax treatment or legal
21 effect of the payments called for hereunder, and Class Members are not relying on
22 any statement or representation by the Parties in this regard. Settlement Class
23 Members, PAGA Group Members, and Class Counsel understand and agree that
24 they shall be solely and legally responsible for the payment of all applicable taxes
25 and penalties assessed on the payments specified herein, except for any applicable
26 employer's share of payroll taxes.

27 60. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
28 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.

61. Preliminary Approval Motion. At the earliest practicable time, Plaintiffs shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Agreement. Plaintiffs shall provide a courtesy draft of these papers to Defense Counsel five (5) calendar days before filing the documents.

62. Settlement Administrator. By accepting the role as Settlement Administrator, the Settlement Administrator is bound to all of the terms, conditions and obligations described in this Agreement. Among these obligations, the Settlement Administrator shall have sole and exclusive responsibility for: (a) calculating Qualified Workweeks, Individual Settlement Payments and Individual PAGA Payments; (b) printing and mailing the Notice Packets to the Class Members as

1 directed by the Court; (c) receiving and reporting any disputes, objections, opt outs,
2 and Requests for Exclusion and Notices of Objection; (d) deducting all legally
3 required taxes from Individual Settlement Payments and distributing tax forms; (e)
4 processing and mailing payments to the Class Representatives, Class Counsel,
5 LWDA, Settlement Class Members, and PAGA Group Members; (f) processing and
6 mailing any tax payments to the appropriate state and federal taxing authorities; (g)
7 providing declaration(s) as necessary in support of preliminary and/or final approval
8 of this Settlement; and (h) other tasks as the Parties mutually agree or the Court
9 orders the Settlement Administrator to perform. The Settlement Administrator shall
10 keep the Parties timely apprised of the performance of all Settlement
11 Administrator's responsibilities. Defendant and Defense Counsel shall have no
12 responsibility for validating or ensuring the accuracy of the Settlement
13 Administrator's work. Plaintiffs, Class Counsel, Defendant and Defense Counsel
14 shall not bear any responsibility for errors or omissions in the calculation or
15 distribution of the Individual Settlement Payments or any other distribution of
16 monies contemplated by this Agreement.

17 63. Notice Procedure.

18 a. Class Data. The Class Data shall be confidential. The Settlement
19 Administrator shall not provide the Class Data to Class Counsel or Plaintiffs
20 or any third party, or use the Class Data or any information contained therein
21 for any purpose other than to administer this Agreement. Defendant shall
22 provide the Settlement Administrator with the Class Data for purposes of
23 preparing and mailing Notice Packets to Class Members. This shall take
24 place within fourteen (14) calendar days after the later of: (a) the Preliminary
25 Approval Date; (b) the date on which Defendant receives sufficient and
26 reasonable written assurance that the Settlement Administrator will maintain
27 the confidentiality of the Class Data.
28

1 b. Notice Packets.

2 (i) The Notice of Class Action and PAGA Settlement mailed out to
3 Class Members (the “Notice Packet”) shall be in a form substantially similar
4 to the form attached hereto as Exhibit 1. The Notice of Class Action and
5 PAGA Settlement shall also inform Class Members to keep the Settlement
6 Administrator apprised of their current mailing addresses, to which the
7 Settlement Payments will be mailed following the Effective Date. The
8 Notice of Class Action and PAGA Settlement shall set forth the releases to
9 be given in connection with the Settlement.

10 (ii) The Notice Packet shall be individualized by inclusion of the Class
11 Member’s number of Qualified Workweeks, and the Settlement
12 Administrator’s calculation of their estimated Individual Settlement Payment
13 if they do not request to be excluded from the Settlement. The Notice Packet
14 shall also be individualized by inclusion of the Settlement Administrator’s
15 calculation of their estimated Individual PAGA Payment, which payments
16 are not subject to opting out by Class Members.

17 c. Notice By First Class U.S. Mail. Upon receipt of the Class Data, the
18 Settlement Administrator will perform a search based on the National
19 Change of Address Database to update and correct any known or identifiable
20 address changes. No later than fourteen (14) calendar days after receiving
21 the Class Data from Defendant as provided herein, the Settlement
22 Administrator shall mail copies of the Notice Packet to all Class Members
23 via regular First Class U.S. Mail. The Settlement Administrator shall
24 exercise its best judgment to determine the current mailing address for each
25 Class Member. The address identified by the Settlement Administrator as
26 the current mailing address shall be presumed to be the best mailing address
27 for each Class Member.
28

1 d. Undeliverable Notices. Any Notices of Class Action and PAGA Settlement
2 returned to the Settlement Administrator as non-delivered on or before the
3 Response Deadline shall be re-mailed to the forwarding address affixed
4 thereto. If no forwarding address is provided, the Settlement Administrator
5 shall promptly attempt to determine a correct address by lawful use of skip-
6 tracing, or other search using the name, address and/or Social Security
7 number of the Class Member involved, and shall then perform a re-mailing,
8 if another mailing address is identified by the Settlement Administrator. In
9 addition, if any Notices of Class Action and PAGA Settlement addressed to
10 Class Members who are currently employed by Defendant are returned to
11 the Settlement Administrator as non-delivered and no forwarding address is
12 provided, the Settlement Administrator shall notify Defendant. Defendant
13 will request that the currently employed Class Member provide a corrected
14 address, and transmit to the Settlement Administrator any corrected address
15 provided by the Class Member.

16 e. Disputes Regarding Individual Settlement Payments. Class Members will
17 have the opportunity, should they disagree with the number of Qualified
18 Workweeks stated on their Notice of Class Action and PAGA Settlement, to
19 provide documentation or an explanation. If there is a dispute, the
20 Settlement Administrator will consult with the Parties to determine whether
21 an adjustment is warranted. The Settlement Administrator shall determine
22 the eligibility for, and the amounts of, any Individual Settlement Payments
23 under the terms of this Agreement. The Settlement Administrator's
24 determination of the eligibility for and amount of any Individual Settlement
25 Payment shall be binding upon the Settlement Class Member and the Parties.
26 (i) Disputes Regarding Administration of Settlement. Any disputes not
27 resolved by the Settlement Administrator concerning the administration of
28 the settlement will be resolved by the Court under the laws of the State of

1 California. Prior to any such involvement of the Court, counsel for the
2 Parties will confer in good faith to resolve the disputes without the necessity
3 of involving the Court.

4 (ii) Requests for Exclusion.

5 (a) The Notice of Class Action Settlement contained in the
6 Notice Packet shall state that Class Members who wish to exclude
7 themselves from the class action settlement must submit a written
8 Request for Exclusion by the Response Deadline. The written
9 Request for Exclusion must state that the Class Member wishes to
10 exclude himself or herself from the class action settlement and (1)
11 must contain the name, address, and the last four digits of the Social
12 Security number or Employee ID number of the person requesting
13 exclusion; (2) must be signed by the Class Member; (3) must be
14 postmarked by the Response Deadline and returned to the Settlement
15 Administrator at the specified address; and (4) contain a typewritten
16 or handwritten notice stating in substance: "I wish to opt out of the
17 settlement of the class action lawsuit entitled *Carlos Munguia et al.*
18 *v. Blue Line Foodservice Distribution, Inc.*, filed on August 28, 2020,
19 in the Orange County Superior Court, and assigned Case No. 30-
20 2020-01157719-CU-OE-CXC. I understand that by requesting to be
21 excluded from the class action settlement, I will receive no money
22 from the class action settlement described in this Notice." The
23 Request for Exclusion may, but need not be, in the form of the
24 Exclusion Form attached hereto as Exhibit 2.

25 (b) The Request for Exclusion will not be valid if it is not timely
26 submitted, if it is not signed by the Class Member, or if it does not
27 contain the name and address of the Class Member. The date of the
28 postmark on the return mailing envelope for the Request for

1 Exclusion shall be the exclusive means used to determine whether
2 the Request for Exclusion was timely submitted. Class Members
3 who fail to submit a valid and timely written Request for Exclusion
4 on or before the Response Deadline shall be Settlement Class
5 Members who are bound by all terms of the Settlement and any final
6 judgment entered in this Action if the Settlement is approved by the
7 Court.

8 (c) Any Class Member who requests to be excluded from the
9 Settlement Class will not be entitled to any recovery under the
10 Settlement, except for an Individual PAGA Payment, and will not be
11 bound by the terms of the Settlement or have any right to object,
12 appeal or comment thereon. Nothing in this Agreement will
13 constitute or be construed as a waiver of any defense that Defendant
14 or the Released Parties have or could assert against anyone who
15 timely serves a Request for Exclusion.

16 (d) No later than five (5) calendar days after the Response
17 Deadline, the Settlement Administrator shall provide counsel for the
18 Parties with a final list of the Class Members who have timely
19 submitted written Requests for Exclusion.

20 (e) At no time shall any of the Parties or their counsel seek to
21 solicit or otherwise encourage members of the Class to submit
22 Requests for Exclusion from the class action settlement.

23 f. Objections.

24 (i) The Notice of Class Action and PAGA Settlement contained in the
25 Notice Packet shall state that Class Members who wish to object to the
26 Settlement must mail to the Settlement Administrator a written statement of
27 objection ("Notice of Objection") by the Response Deadline. The postmark
28

1 date of mailing shall be deemed the exclusive means for determining that a
2 Notice of Objection was served timely.

3 (ii) Settlement Class Members who submit a timely Notice of Objection
4 will have a right to appear at the Final Approval/Settlement Fairness Hearing
5 in order to have their objections heard by the Court. The Notice of
6 Objection must be signed by the Settlement Class Member and state: (1) the
7 case name and number; (2) the name of the Settlement Class Member; (3)
8 the address of the Settlement Class Member; (4) the last four digits of the
9 Settlement Class Member's Social Security number and/or Employee ID
10 number; (4) the basis for the objection; and (5) if the Settlement Class
11 Member intends to appear at the Final Approval/Settlement Fairness
12 Hearing. The Notice of Objection may, but need not be, in the form of the
13 Objection Form attached hereto as Exhibit 3. Settlement Class Members
14 who have not filed a Notice of Objection may also appear at the Final
15 Approval/Settlement Fairness Hearing and ask for permission to address the
16 Court. Settlement Class Members who fail to make objections in the manner
17 specified above shall be deemed to have waived any objections and shall be
18 foreclosed from making any objections (whether by appeal or otherwise) to
19 the settlement.

20 (iii) At no time shall any of the Parties or their counsel seek to solicit or
21 otherwise encourage Settlement Class Members to file or serve written
22 objections to the settlement or appeal from the Order and Final Judgment.

23 (iv) Class Members who submit a written Request for Exclusion are not
24 entitled to object to the settlement. In the event that a Class Member
25 submits both a Request for Exclusion and a Notice of Objection, the Request
26 for Exclusion will be invalid, while the Notice of Objection will remain
27 valid.
28

(v) The Settlement Administrator shall send all objections to Class Counsel and Defense Counsel. Class Counsel will be responsible for filing the Notices of Objection with the Court in advance of the Final Approval Hearing. Plaintiffs and/or Defendant may file responses to any properly submitted Notices of Objection no later than five (5) court days prior to the date of the Final Approval/Settlement Fairness Hearing.

(vi) Defendant shall not be responsible for any fees, costs, or expenses incurred by Plaintiffs, Class Counsel or Settlement Class Members arising from or related to any objection to the Agreement or related to any appeals thereof, in excess to the amounts provided for in this Agreement.

64. Funding and Allocation of the Maximum Settlement Amount. This is a non-reversionary settlement in which Defendants are required to pay the entirety of the Maximum Settlement Amount. No amount of the Maximum Settlement Fund will revert to Defendant. Upon satisfaction of the preconditions described in this Agreement and pursuant to the timeline and instructions below, Defendants will deposit the Maximum Settlement Amount into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator. Except as stated in this Agreement, in no event shall Defendants be responsible for any payments in excess of the Maximum Settlement Amount.

a. Funding Due Date. Defendant shall provide the Maximum Settlement Amount to the Settlement Administrator to fund the Settlement as set forth in this Agreement within ten (10) calendar days after the Effective Date.

b. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein.

c. Calculation of Individual Settlement Payments. The Settlement Administrator will calculate each Individual Settlement Payment as described herein. The Settlement Administrator will divide the Net

1 Settlement Amount by the combined total number of Qualified Workweeks
2 to arrive at the Workweek Value. The Workweek Value will then be
3 multiplied by the number of Qualified Workweeks worked by each
4 Settlement Class Member to arrive at each Settlement Class Member's
5 allocation of the Net Settlement Amount. The Settlement Administrator shall
6 calculate any applicable payroll taxes to the allocation to result in the
7 Individual Settlement Payment for that Settlement Class Member. All
8 Settlement Class Members will be entitled to payment for at least one
9 Qualified Workweek. Each Individual Settlement Payment will be reduced
10 by any legally mandated employee tax withholdings (e.g., employee payroll
11 taxes, etc.). To the extent that the Court does not approve allocating funds
12 from the Maximum Settlement Amount to the employer's share of payroll
13 taxes, Defendant shall be responsible for funding such taxes,

14 d. Calculation of Individual PAGA Payments: The Settlement Administrator
15 will calculate each PAGA Group Member's Individual PAGA Payment by
16 dividing the 25% of the PAGA Payment to be distributed to PAGA Group
17 Members (*i.e.*, \$6,250) by the total number of Qualified Workweeks worked
18 by PAGA Group Members in the PAGA Period, arriving at the PAGA
19 Workweek Value; and then multiplying the PAGA Workweek Value by the
20 number of Qualified Workweeks worked by each PAGA Group Member in
21 the PAGA Period.

22 e. Tax Allocation. For tax purposes, Individual Settlement Payments for each
23 individual Regular Rate Settlement Class Member shall be allocated and
24 treated as follows: 10% as wages subject to IRS Form W-2 reporting and
25 applicable taxes/withholdings, and 90% as non-wage income. For Wage
26 Statement Class Members who are not Regular Rate Class Members,
27 Individual Settlement Payments for each individual shall be allocated 100%
28 as non-wage income, penalties and interest. The Settlement Administrator

1 will be responsible for issuing to Settlement Class Members an IRS Form
2 W-2 for any amounts deemed to be “wages” and any applicable IRS Form
3 1099 for the portions allocated to penalties and interest. The amount of all
4 payments to PAGA Group Members shall be reported on any applicable IRS
5 Form 1099 by the Settlement Administrator.

6 f. Mailing. Individual Settlement Payments and Individual PAGA Payments
7 shall be mailed by regular First Class U.S. Mail to Class Members’ last
8 known mailing address no later than twenty-five (25) calendar days after the
9 Effective Date.

10 g. Uncashed Checks. Any checks issued to Class Members shall remain valid
11 and negotiable for one hundred and eighty (180) days from the date of their
12 issuance. In the event any settlement payment has not been cashed within
13 one hundred and eighty (180) days, pursuant to California Code of Civil
14 Procedure section 384, the unpaid residue shall be tendered to the the State
15 Controller, Unclaimed Property Division for handling on behalf of the
16 recipient. In such event, those intended recipients will nevertheless remain
17 bound by the Settlement. The Settlement Administrator shall prepare a
18 report regarding the distribution plan pursuant to California Code Civil
19 Procedure Section 384, including and not limited to the unused funds as set
20 forth in this Paragraph, and the report shall be presented to the Court by
21 Class Counsel.

22 h. Class Representative Service Awards.

23 (i) Defendant agrees not to oppose or object to any application or
24 motion by Plaintiffs to each receive a Class Representative Service Award
25 not to exceed ten thousand dollars (\$10,000) to each Plaintiff in exchange
26 for their General Releases and for their time, effort and risk in bringing and
27 prosecuting this matter. The Class Representative Service Award shall be in
28 addition to each Plaintiff’s settlement payments as Class Members.

1 (ii) The Settlement Administrator shall pay the Class Representative
2 Service Awards to Plaintiffs from the Maximum Settlement Amount no later
3 than fourteen (14) calendar days after the Effective Date. Any portion of the
4 requested Class Representative Service Award that is not awarded to the
5 Class Representatives shall become part of the Net Settlement Amount.

6 (iii) The Settlement Administrator shall issue an IRS Form 1099 —
7 MISC to each Plaintiff for their Class Representative Service Awards.
8 Plaintiffs shall be solely and legally responsible to pay any and all applicable
9 taxes on their Class Representative Service Awards and shall hold harmless
10 Defendant and the Released Parties from any claim or liability for taxes,
11 penalties, or interest arising as a result of the Class Representative Service
12 Awards.

13 (iv) Even in the event that the Court reduces or does not approve the
14 requested Class Representative Service Awards, Plaintiffs shall not have the
15 right to revoke this Agreement, and it will remain binding, nor will Plaintiffs
16 seek, request, or demand an increase in the Maximum Settlement Amount.

17 i. Class Counsel Award.

18 (i) In consideration for settling the Action and in exchange for the
19 release of the Released Parties for all Released Claims and the General
20 Release by Plaintiffs, Class Counsel intends to apply for an award of
21 attorneys' fees not to exceed thirty-three and one-third percent (33.33%) of
22 the Maximum Settlement Amount (\$83,333.33 of \$250,000.00), plus actual
23 costs and expenses supported by declaration not to exceed twenty thousand
24 dollars (\$20,000), from the Maximum Settlement Amount. Even in the
25 event that the Court reduces or does not approve the requested Class Counsel
26 Attorneys' Fees Award and Litigation Costs, Plaintiffs' Counsel shall not
27 have the right to revoke this Agreement, and it will remain binding.
28

(ii) Class Counsel, Plaintiffs, and Class Members will not apply to the Court for any payment of attorneys' fees and costs that are in addition to the foregoing or that exceed the Maximum Settlement Amount. The Parties agree that, over and above the Court-approved Class Counsel Award, each of the Parties, including all Class Members, shall bear their own fees and costs, including, but not limited to, those related to the investigation, filing, prosecution, or settlement of the Action; the negotiation, execution, or implementation of this Agreement; and/or the process of obtaining, administering, or challenging an Order Granting Preliminary Approval and/or Final Approval.

(iii) Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement.

(iv) The Settlement Administrator shall pay the Class Counsel Award and Litigation Costs to Class Counsel from the Maximum Settlement Amount within fourteen (14) calendar days after the Effective Date.

(v) Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this Paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this Paragraph.

(vi) In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiffs and Class Counsel shall not have the right to modify or revoke this Agreement, which will remain binding, nor will Plaintiffs or Class Counsel seek, request, or demand an increase in the Maximum Settlement Amount.

j. PAGA Payment. Twenty-Five Thousand dollars (\$25,000) shall be allocated from the Maximum Settlement Amount for settlement and release

1 of claims for civil penalties under the Private Attorneys General Act of
2 2004. The Settlement Administrator shall pay seventy-five percent (75%) of
3 that \$25,000 payment, or \$18,750, to the California Labor and Workforce
4 Development Agency (the "PAGA Payment") no later than fourteen (14)
5 calendar days after the Effective Date. Twenty-five (25%) of the remaining
6 amount of the \$25,000 payment, or \$6,250, will be distributed as described
7 in this Agreement. Class Counsel will take all action required by California
8 Labor Code section 2699(l).

9 k. Settlement Administration Costs. The Settlement Administrator shall be
10 paid for the costs of administration of the settlement from the Maximum
11 Settlement Amount. The estimate of the Settlement Administration Costs is
12 \$6,000. The Settlement Administrator shall be paid the Settlement
13 Administration Costs no later than fourteen (14) calendar days after
14 Defendant provides funds to the Settlement Administrator for disbursement
15 under this Agreement.

16 65. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
17 accomplish the terms of this Agreement, including but not limited to, execution of
18 necessary documents and to take such other action as may reasonably be necessary
19 to implement the terms of this Agreement. As soon as practicable after execution of
20 this Agreement, Class Counsel shall, with the assistance and cooperation of
21 Defendant and Defense Counsel, take all necessary steps to secure the Court's
22 Preliminary and Final Approval of this Agreement. The Parties also agree to
23 cooperate in the Settlement administration process. The Parties each represent they
24 do not have any financial interest in the Settlement Administrator or otherwise have
25 a relationship with the Settlement Administrator that could create a conflict of
26 interest. Class Counsel will also notify Defense Counsel if subpoenaed or upon
27 receipt of any other request for documents or information regarding any other action
28

1 filed or potential action against the Released Parties that covers or includes any
2 Settlement Class Members and the Released Claims.

3 66. Preliminary Approval Hearing. Plaintiffs shall obtain a hearing before the Court to
4 request the preliminary approval of the Settlement, and the entry of a Preliminary
5 Approval Order for: (i) conditional certification of the Class under California Code
6 of Civil Procedure section 382 for settlement purposes only, (ii) preliminary
7 approval of the proposed Agreement, and (iii) setting a date for a Final
8 Approval/Settlement Fairness Hearing and PAGA Settlement Approval. The
9 Preliminary Approval Order shall provide for the Notice Packet to be sent to all
10 Class Members as specified herein. In conjunction with the Motion for Preliminary
11 Approval, Plaintiffs shall submit this Agreement, which sets forth the terms of this
12 settlement, and will include the proposed Notice Packet, which shall include the
13 proposed Notice of Class Action and PAGA Settlement.

14 67. Final Approval Motion. At the earliest practicable time following the expiration of
15 the Response Deadline, Plaintiffs shall file with the Court a Motion for Order
16 Granting Final Approval and Entering Judgment, which motion shall request final
17 approval of the Settlement and a determination of the amounts payable for the Class
18 Representative Service Awards, the Class Counsel Award, the PAGA Payment, the
19 Individual PAGA Payments and the Settlement Administration Costs. Plaintiffs
20 shall provide a courtesy draft of these papers to Defense Counsel five (5) calendar
21 days before filing the documents.

22 a. Declaration by Settlement Administrator. The Settlement Administrator
23 shall submit a declaration in support of Plaintiffs' motion for final approval
24 of this Settlement detailing the number of Notice Packets mailed and re-
25 mailed to Class Members, the number of undeliverable Notice Packets, the
26 number of timely requests for exclusion, the number of Notices of
27 Objections received, the amount of the average Individual Settlement
28 Payment, the Settlement Administration Costs, and any other information as

1 the Parties mutually agree or the Court orders the Settlement Administrator
2 to provide.

3 b. Final Approval Order and Judgment. The Parties shall present an Order
4 Granting Final Approval of Class Action and PAGA Settlement to the Court
5 for its approval, and Judgment thereon consistent with the terms and
6 conditions of this Agreement.

7 c. Defendant's Option to Revoke Settlement. Defendant has the unilateral
8 right to revoke the Settlement as follows:

9 (i) If, after the Response Deadline, the number of Class Members who
10 submitted timely and valid written requests for exclusion from the settlement
11 equals at least five percent (5%) of all Class Members, Defendant shall have,
12 in its sole discretion, the option to terminate this Agreement. If Defendant
13 exercises the option to terminate this Agreement, Defendant shall: (a)
14 provide written notice to Class Counsel within seven (7) calendar days after
15 the Response Deadline and (b) pay all Settlement Administration Costs
16 incurred up to the date or as a result of the termination; and the Parties shall
17 proceed in all respects as if this Agreement had not been executed.

18 (ii) The Parties agree the Maximum Settlement Amount was based in
19 part on the Parties' understanding that as of May 6, 2021 there were
20 approximately 137 putative class members. If the number of putative class
21 members increases from the above estimate by more than ten percent (10%),
22 the MSA will be increased proportionately, by such amount.

23 68. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
24 an opportunity for Defense Counsel to review the Motions for Preliminary and Final
25 Approval prior to filing with the Court, as set forth herein. The Parties and their
26 counsel will cooperate with each other and use their best efforts to effect the Court's
27 approval of the Motions for Preliminary and Final Approval of the Settlement, and
28 entry of Judgment.

1 69. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
2 except such proceedings necessary to implement and complete the Settlement,
3 pending the Final Approval/Settlement Fairness Hearing to be conducted by the
4 Court.

5 70. Nullification of Agreement. In the event: (i) the Court does not grant preliminary
6 approval; (ii) the Court does not grant final approval; (iii) the Court does not enter a
7 final judgment as provided herein; or (iv) the Settlement does not become final for
8 any other reason, this Agreement shall be null and void and any order or judgment
9 entered by the Court in furtherance of this Agreement shall be treated as void from
10 the beginning, except that Plaintiffs shall be bound by his agreements above to
11 dismiss any state court actions and refile such actions in federal court In the event
12 of nullification of this Agreement, the Parties and any funds to be awarded under
13 this Agreement shall be returned to their respective statuses as of the date and time
14 immediately prior to the execution of this Agreement, and the Parties shall proceed
15 in all respects as if this Agreement had not been executed, except that any costs
16 already incurred by the Settlement Administrator shall be paid by equal
17 apportionment among the Parties. In the event an appeal is filed from the Court's
18 final judgment, or any other appellate review is sought, administration of the
19 Settlement shall be stayed pending final resolution of the appeal or other appellate
20 review, but any fees incurred by the Settlement Administrator prior to it being
21 notified of the filing of an appeal from the Court's Final Judgment, or any other
22 appellate review, shall be paid to the Settlement Administrator within thirty (30)
23 days of said notification.

24 71. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other Class
25 Members pursuant to this Agreement shall be deemed not to be pensionable
26 earnings and shall not have any effect on the eligibility for, or calculation of, any of
27 the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the
28 Plaintiffs or Settlement Class Members.

- 1 72. Exhibits and Headings. The terms of this Agreement include the terms set forth in
2 the attached Exhibit 1, which is incorporated by this reference as though fully set
3 forth herein and is an integral part of the Agreement. The descriptive headings of
4 any paragraphs or sections of this Agreement are inserted for convenience of
5 reference only and do not constitute a part of this Agreement.
- 6 73. Amendment or Modification. This Agreement may be amended or modified only
7 by a written instrument: (1) signed by counsel for all Parties or their successors-in-
8 interest; (2) signed by the Parties or their successors-in-interest; and (3) as may be
9 approved by the Court.
- 10 74. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
11 Agreement among these Parties, and no oral or written representations, warranties
12 or inducements have been made to any Party concerning this Agreement or its
13 Exhibits other than the representations, warranties and covenants contained and
14 memorialized in the Agreement and its Exhibits.
- 15 75. Authorization to Enter into Agreement. Counsel for all Parties warrant and
16 represent they are expressly authorized by the Parties whom they represent to
17 negotiate this Agreement and to take all appropriate actions required or permitted to
18 be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
19 execute any other documents required to effectuate the terms of this Agreement.
20 The person signing this Agreement on behalf of Defendant represents and warrants
21 that he or she is authorized to sign this Agreement on behalf of Defendant. Each
22 Plaintiff represents that he is authorized to sign this Agreement and that he has not
23 assigned, transferred, or encumbered any claim, or part of a claim, demand, cause of
24 action or any rights herein released and discharged or covered by this Agreement to
25 any third-party.
- 26 76. Binding on Successors and Assigns. The provisions of this Agreement shall run in
27 perpetuity. This Agreement shall be binding upon, and inure to the benefit of, the
28 successors or assigns of the Parties hereto, as previously defined.

- 1 77. California Law Governs. All terms of this Agreement and the Exhibits hereto and
2 any disputes arising hereunder shall be governed by and interpreted according to the
3 laws of the State of California.
- 4 78. Counterparts. This Agreement may be executed in one or more counterparts. All
5 executed counterparts and each of them shall be deemed to be one and the same
6 instrument provided that counsel for the Parties to this Agreement shall exchange
7 among themselves copies or originals of the signed counterparts.
- 8 79. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
9 Agreement is a fair, adequate and reasonable settlement of this Action and have
10 arrived at this Agreement after extensive arm's-length negotiations, taking into
11 account all relevant factors, present and potential. The Parties further agree
12 that this Agreement shall not be construed in favor of or against any party by reason
13 of the extent to which any party or his or its counsel participated in the drafting of
14 this Agreement.
- 15 80. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
16 with respect to the interpretation, implementation and enforcement of the terms of
17 this Agreement and all orders and judgments entered in connection therewith, and
18 the Parties and their counsel hereto submit to the jurisdiction of the Court for
19 purposes of interpreting, implementing and enforcing the settlement embodied in
20 this Agreement and all orders and judgments entered in connection therewith.
- 21 81. Invalidity of Any Provision. Before declaring any provision of this Agreement
22 invalid, the Court shall first attempt to construe the provisions valid to the fullest
23 extent possible consistent with applicable precedents so as to define all provisions of
24 this Agreement valid and enforceable.
- 25 82. Publicity. Plaintiffs and Plaintiffs' Counsel agree not to disclose or publicize the
26 Settlement, including the fact of the Settlement, its terms or contents, and the
27 negotiations underlying the Agreement, in any manner or form, directly or
28 indirectly, to any person or entity, except potential class members and as shall be

contractually required to effectuate the terms of the Agreement. For the avoidance of doubt, this section means Plaintiffs and Plaintiffs' Counsel agree not to issue press releases, communicate with, or respond to any media or publication entities, publish information in manner or form, whether printed or electronic, on any medium or otherwise communicate, whether by print, video, recording or any other medium, with any person or entity concerning the Agreement, including the fact of the settlement and its terms or contents and the negotiations underlying the settlement, except as shall be contractually required to effectuate the terms of the settlement. However, for the limited purpose of allowing Plaintiffs' Counsel to prove adequacy as class counsel in other actions, Plaintiffs' Counsel may disclose the name of the Parties in this action, the venue/case number of this action, and settlement details available in the public record, for the limited purpose of allowing Plaintiffs' Counsel to prove adequacy as class counsel in other action or for purposes of seeking approval of an unrelated settlement.

83. No Unalleged Claims. Plaintiffs and Class Counsel represent that they, as of the date of execution of this Agreement, maintain no current or putative claims against Defendant in any judicial, administrative, or arbitral forum, including, but not limited to, any and all claims relating to or arising from Plaintiffs' employment with Defendant, and that Plaintiffs' Counsel is not currently aware of any facts or legal theories upon which Plaintiffs could bring any claims or causes of action against Defendant, excepting those facts or legal theories alleged in the operative complaint in this Action. Plaintiffs and Plaintiffs' Counsel further represent and agree that they do not currently know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendant. The Parties further acknowledge, understand and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation. Nothing in this Paragraph will be construed as a restraint on the right of any counsel to practice.

1 84. Waiver of Certain Appeals. The Parties agree to stipulate to class certification for
2 purposes of implementing this Agreement only and agree to waive all appeals from
3 the Court's final approval of the Agreement, unless the Court modifies the
4 Agreement.

5 85. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that
6 the Released Claims have merit and give rise to liability on the part of Defendant.
7 Defendant claims that the Released Claims have no merit and do not give rise to
8 liability. This Agreement is a compromise of disputed claims. Nothing contained
9 in this Agreement and no documents referred to herein and no action taken to carry
10 out this Agreement may be construed or used as an admission by or against the
11 Defendant or Plaintiffs or Class Counsel as to the merits or lack thereof of the
12 claims asserted.

13 86. Notice of Settlement to LWDA. Plaintiffs hereby represent Plaintiffs will provide
14 notice of this Agreement and proposed settlement to the Labor Workforce
15 Development Agency ("LWDA") as required by Labor Code Section 2699(1)(2).

16 The Parties indicate by signing below their approval of the form of this Agreement (and
17 exhibits thereto).

18 *[Signatures follow on next page.]*
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28

IN WITNESS WHEREOF, the Parties and their duly authorized attorneys execute this Joint Stipulation of Class Action and PAGA Settlement as of the day and year herein set forth.

IT IS SO AGREED:

Dated: _____, 2022 CARLOS MUNGUIA

Plaintiff

Dated: _____, 2022 JOSE ESQUIVEL

Plaintiff

9/8/2022

Dated: _____, 2022 BLUE LINE FOODSERVICE DISTRIBUTION, INC.

DocuSigned by:

Erin Martin

B8B1D247A2AC401...

Name: Erin Martin

Title: Chief of Staff, General Counsel

On Behalf of Defendant

APPROVED AS TO FORM:

Dated: _____, 2022 DIVERSITY LAW GROUP, P.C.

Larry W. Lee
Simon L. Yang
Counsel for Plaintiffs and Proposed Class Counsel

Dated: September 8, 2022 OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.

s/ Gregory C. Cheng

Gregory C. Cheng

Carolyn B. Hall

Counsel for Defendant

BLUE LINE FOODSERVICE DISTRIBUTION,
INC.

IN WITNESS WHEREOF, the Parties and their duly authorized attorneys execute this Joint Stipulation of Class Action and PAGA Settlement as of the day and year herein set forth.

IT IS SO AGREED:

Dated: August 25, 2022

CARLOS MUNGUIA

DocuSigned by:

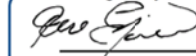


Plaintiff

Dated: August 25, 2022

JOSE ESQUIVEL

DocuSigned by:



Plaintiff

Dated: August 25, 2022

BLUE LINE FOODSERVICE DISTRIBUTION, INC.

Name: Erin Martin

Title: Chief of Staff, General Counsel

On Behalf of Defendant

APPROVED AS TO FORM:

Dated: August 25, 2022

DIVERSITY LAW GROUP, P.C.



Larry W. Lee

Simon L. Yang

Counsel for Plaintiffs and Proposed Class Counsel

Dated: August 25, 2022

OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.

Gregory C. Cheng

Carolyn B. Hall

Counsel for Defendant

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT
Carlos Munguia, et al. v. Blue Line Foodservice Distribution, Inc.
Superior Court of California – Orange County
Case No. 30-2020-01157719-CU-OE-CXC

IF YOU WERE EMPLOYED BY BLUE LINE FOODSERVICE, INC. (“BLUE LINE” OR “DEFENDANT”) IN CALIFORNIA AS AN HOURLY-PAID EMPLOYEE YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A CLASS ACTION AND REPRESENTATIVE ACTION SETTLEMENT.

The Court approved this notice. This is not an advertisement.

You are not being sued. However, your legal rights are affected whether you act or not.

PLEASE READ THIS NOTICE.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
INCLUDE THE FOLLOWING:	
OPTION #1: DO NOTHING	You will receive a payment from the Settlement and be bound by its release. No action is required for you to receive a share of this Settlement.
OPTION #2: EXCLUDE YOURSELF	<u>You will not receive a share of the Settlement.</u> ¹ This is the only option that allows you to file your own lawsuit against Defendant for the claims released in this Settlement. To “opt out” of the Settlement, you must submit a Request for Exclusion by INSERT DEADLINE .
OPTION #3: OBJECT	If you choose, you may object to this Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from receiving a portion of the Settlement. You cannot object if you exclude yourself from the Settlement.

WHAT IS IN THIS NOTICE

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¹ Regardless of whether you exclude yourself from the Settlement, you will still receive an Individual PAGA Payment (if you qualify as a PAGA Group Member) and be bound by the release of PAGA Released Claims under the Settlement.

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

1. Why Should You Read This Notice?

You have received this Notice because Blue Line's records indicate that you work, or used to work, for Blue Line in California as a non-exempt employee. You are receiving this notice because you may be a member of a class on whose behalf a lawsuit has been brought and settled. The lawsuit is known as *Carlos Munguia, et al. v. Blue Line Foodservice Distribution, Inc.*, Orange County Superior Court, Case No. 30-2020-01157719-CU-OE-CXC (the "Lawsuit").

The Parties in the Lawsuit reached a settlement ("Settlement"). The settlement class is comprised of all current and former hourly-paid employees ("Class Members") employed by Defendant in California who worked for Defendant at any time during the Covered Period defined as April 6, 2016, through September 1, 2021 (the "Covered Period"). There shall be two Subclasses as follows:

Regular Rate Class: all current and former California non-exempt employees of Defendant who earned overtime wages or sick pay and non-discretionary compensation in the same workweek at any time since April 6, 2016 to September 1, 2021.

Wage Statement Class: all current and former California non-exempt employees who were paid overtime wages at any time since April 6, 2019 to September 1, 2021.

This Notice tells you of your rights to share in the Settlement. On _____, 2022, the Honorable Glenda Sanders of the Orange County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Blue Line's records indicate that you are a Class Member, and therefore you may be entitled to a payment from the settlement.**

The Court will hold a Final Approval Hearing concerning the proposed Settlement on _____, 2023, at 1:30 p.m. in Department CX101, of the Orange County Superior Court located at 751 West Santa Ana Blvd., Santa Ana, CA 92701. The Final Approval Hearing may be continued to another date without further notice. You are not required to attend the hearing but you are welcome to do so.

2. What is the Class Action Settlement?

The Settlement will affect all members of the class and members of the representative PAGA group. You may get money from the Settlement. This Notice will explain the terms of the Settlement and the amount of money you may receive under the Settlement.

3. What Is the Case About?

The Lawsuit alleges the Class Members were not paid overtime wages at the correct overtime regular rate of pay, were not paid sick pay wages at the correct regular rate of pay, and were not

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

provided legally-compliant wage statements. The Lawsuit further alleges these actions constituted unfair business practices under California law. Among other things, the Lawsuit seeks penalties under California's Labor Code Private Attorneys General Act ("PAGA") set forth in California Labor Code section 2699 *et seq.*

The Lawsuit was filed by Plaintiffs Carlos Munguia and Jose Esquivel (together, "Plaintiffs"). They assert the above claims in their individual capacity, as class representatives, and as representatives under PAGA.

Blue Line has denied, and continues to deny, the factual and legal allegations raised in the Lawsuit and believes it has no liability for any of Plaintiffs' or the Class Members' claims under any statute, wage order, common law, or equitable theory. By agreeing to settle, Blue Line is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Blue Line has agreed to settle the case as part of a compromise with Plaintiffs. The Settlement is not an admission of any wrongdoing by Blue Line or an indication that Blue Line violated any law.

The Parties reached a Settlement subject to Court approval as represented in the Joint Stipulation of Class Action and PAGA Settlement and Release (the "Settlement" or "Settlement Agreement"). Class Counsel believes that the Settlement is fair, reasonable, and adequate, and that it is in the best interests of Class Members. Likewise, Defendant has decided that settlement is favorable because it avoids the time, risk, and expense of a lengthy lawsuit, and settlement immediately resolves, finally and completely, the pending and potential claims. By settling this lawsuit, Defendant does not admit, concede, or imply that it has done anything wrong or legally actionable.

4. *How Much Can I Expect to Receive?*

Defendant will pay a total sum of \$250,000.00 ("Maximum Settlement Amount"), which includes all settlement payments to Class Members ("Net Settlement Amount"), class counsel's fees and costs, costs of administering the Settlement, payment for alleged civil penalties under PAGA ("PAGA Payment"), and the Class Representatives' Service Awards.

Individual Settlement Payments: Each Class Member who does not exclude himself or herself from the Settlement ("Settlement Class Member") will receive a prorated portion ("Individual Settlement Payment") of the Net Settlement Amount based on the number of weeks actually worked for Blue Line during the Covered Period ("Workweeks"). The Settlement Class Member will receive credit for Workweeks worked as part of the "Regular Rate Class" and/or the "Wage Statement Class," as described below.

The Settlement Administrator will calculate each Individual Settlement Payment by dividing the Net Settlement Amount by the combined total number of Workweeks for the Regular Rate Subclass, and Wage Statement Subclass, to arrive at the Workweek Value. The Workweek Value will then be multiplied by the number of Workweeks worked by the Class Member as part of the Regular Rate Class and as part of the Wage Statement Class, to arrive at the Individual Settlement Payment for that Class Member.

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

You will receive approximately the following payment based on your workweeks worked in each Class:

Regular Rate Class: Blue Line's records indicate that you worked approximately _____ workweeks between April 6, 2016, through September 1, 2021. Based on these records, your estimated payment as a Class Member in this Class would be \$ _____.

Wage Statement Class: Blue Line's records indicate that you worked approximately _____ workweeks between April 6, 2019, through September 1, 2021. Based on these records, your estimated payment as a Class Member in this Class would be \$ _____.

Individual PAGA Payments: All Class Members who worked for Blue Line in California at any time from April 6, 2019 to September 1, 2021 ("PAGA Group Member") are also entitled to receive a prorated portion of the PAGA Payment, regardless of whether they opt out of the Settlement.

The Settlement Administrator will calculate each PAGA Group Member's Individual PAGA Payment by dividing the 25% of the PAGA Payment to be distributed to Class Members, (*i.e.* \$6,250) by the total number of Workweeks worked by the PAGA Group Members, to arrive at the PAGA Workweek Value, and then multiplying the PAGA Workweek Value by the number of Workweeks worked by each PAGA Group Member.

Blue Line's records indicate that you worked approximately _____ workweeks between April 6, 2019, through September 1, 2021. Based on these records, your estimated PAGA Payment is \$ _____.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your payment under the Settlement.

For tax purposes, Individual Settlement Payments for each individual Regular Rate Settlement Class Member shall be allocated and treated as follows: 10% as wages subject to IRS Form W-2 reporting and applicable taxes/withholdings, and 90% as non-wage income. For Wage Statement Class Members who are not Regular Rate Class Members, Individual Settlement Payments for each individual shall be allocated 100% as non-wage income, penalties and interest.

5. *Why Did the Defendant Join in This Notice?*

Blue Line does not admit any claim alleged in the Lawsuit and denies that it owes money for any of the claims in this matter. Blue Line is settling the lawsuit as a compromise. Blue Line reserves the right to object to and defend itself against any claim if, for any reason, the Settlement fails. The Court's file has the Settlement documents with more information on the lawsuit. You may review the Court's docket in the case at <http://www.occourts.org/>.

6. *Who Are the Plaintiffs in This Class Action?*

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

Carlos Munguia and Jose Esquivel are the Plaintiffs, Class Representatives, and PAGA Representatives in the Lawsuit. They are acting on behalf of themselves and on behalf of other members of the class and the State of California.

7. *Who Are the Attorneys Representing the Parties?*

Class Counsel

Larry W. Lee, Esq.
Simon L. Yang, Esq.
DIVERSITY LAW GROUP, P.C.
515 South Figueroa Street, Suite 1250
Los Angeles, CA 90071
Tel.: (213) 488-6555 / Fax: (213) 488-6554
Email: lwlee@diversitylaw.com

William L. Marder, Esq.
POLARIS LAW GROUP LLP
501 San Benito Street, Suite 200
Hollister, CA 95023
Tel.: (831) 531-4214

Defense Counsel

Gregory C. Cheng, Esq.
Carolyn B. Hall, Esq.
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111

8. *What are my Rights? How Will My Rights Be Affected?*

Class Counsel, appointed and approved by the Court for Settlement only, will represent you. You have three options:

OPTION #1: Participate in the Settlement

Under the Settlement, you will **automatically** receive a settlement payment unless you opt out by following the opt-out procedure set forth below.

This Notice of Settlement states the total number of workweeks you worked for Defendant during the Covered Period, in either or both subclasses. Your individual settlement payment as a Class Member will be based on that number. If you believe the information on this Notice is correct, then you do not need to take any further action to receive your settlement payment.

If you believe the workweek information shown above in Section 4 is incorrect, you must submit a written workweek dispute stating why you believe the listed workweeks are not correct. The workweek dispute must be mailed to the Settlement Administrator (whose address is listed below) and must be postmarked no later than , **2022**. You should submit to the Settlement Administrator documentation to support the number of workweeks you believe you worked during the Covered Period. If there is a dispute about the workweeks you worked, the Settlement Administrator will review the records to resolve the dispute.

If you are a current employee of the Defendant, your decision as to whether or not to participate in this Settlement will **not** affect or in any way impact your employment.

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

OPTION #2: Object to the Settlement

If you wish to Object to the Settlement, you must submit a written Objection stating why you object to the Settlement. The Objection must be signed by you and include your full name, address, telephone number, and last four digits of your Social Security number. The Objection must be mailed to the Settlement Administrator (whose address is listed below) and must be postmarked no later than [REDACTED], 2022. Absent good cause found by the Court, late Objections will not be considered. If you wish to object to the Settlement, you may use the *Notice of Objection* Form included in this Notice Packet.

You may also, if you wish, appear at the Final Approval Hearing set for [REDACTED], 2023 at 1:30 p.m. in Department CX101, of the Orange County Superior Court located at 751 West Santa Ana Blvd., Santa Ana, CA 92701 and discuss your objections with the Court and the Parties. The Final Approval Hearing may be continued to another date without further notice.

IMPORTANT: Prior to the hearing date, you should check www.occourts.org/media-relations/CoronaVirusUpdate.html for the most current instructions regarding how to appear for the hearing and to access services that are available to answer questions.

IF YOU OBJECT TO THE SETTLEMENT, YOU WILL STILL RECEIVE YOUR SHARE OF THE SETTLEMENT IF THE COURT APPROVES THE SETTLEMENT.

OPTION #3: Opt Out of the Settlement

If you wish to be excluded from participating in the Settlement, you must submit a written statement (“Opt Out”) indicating you desire to be excluded or otherwise opt out of the Settlement. Your Opt Out must be in writing, signed by you, and contain your name, address, telephone number, and the last four digits of your Social Security number. You must submit your completed, signed Opt Out to the Settlement Administrator by mail to the address below. To be considered timely, your Opt-Out must be postmarked no later than [REDACTED], 2022. Late Opt-Outs will not be considered. If you wish to “opt out” of the Settlement, you may use the *Election Not To Participate In (“Opt Out” From) Class Action Settlement* Form included in this Notice Packet.

If you timely mail a complete and valid Opt-Out, you will no longer be a member of the class and you will not be eligible to object to the terms of the Settlement or receive an Individual Settlement Payment. Except for the PAGA Release, you will not be bound by the terms of the Settlement, and may pursue any valid claims you may have, at your own expense, against Defendant. Individuals who qualify as PAGA Group Members shall still receive an Individual PAGA Payment, regardless of whether they opt out of the Settlement.

EFFECT OF THE SETTLEMENT ON YOUR RIGHTS

Upon final approval of the Settlement by the Court, all Settlement Class Members will be deemed to have released the Released Parties from all Released Claims and PAGA Released Claims, as defined below. Regardless of whether an individual opts out of the Settlement, all PAGA Group Members will be deemed to have released the Released Parties from all PAGA

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

Released Claims.

“Released Parties” means Blue Line Foodservice Distribution, Inc. and all its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, franchisees, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers, and all persons acting under, by, through, or in concert with any of them, and each of them.

“Released Claims” means all causes of action based on the factual or legal theories alleged in the Action, or that reasonably could have been raised in the Action, including all of the following legal claims: (a) any and all claims for unpaid or underpaid overtime wages; (b) any and all claims for failure to pay sick pay at proper rates; (c) any and all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Action, and including claims for injuries suffered therefrom; (d) any and all claims for the untimely payment of final wages and associated waiting time penalties under Labor Code Section 203 based on the facts, claims, causes of action, or legal theories alleged in the Action, (e) any and all claims under the Business & Professions Code (including Section 17200 *et seq.*) premised on the facts, claims, or legal theories described herein or in the Action; (e) any other claims or penalties under the wage and hour laws pleaded in the Action; and (f) all damages, penalties, interest and other amounts recoverable under said causes of action under California and federal law, to the extent permissible, including but not limited to the California Labor Code as to the facts alleged in the Action, the applicable Wage Orders as to the facts and theories alleged in the Action. The period of the Release shall extend to the limits of the Covered Period. To the extent permitted by law, the *res judicata* effect of the Judgment will be the same as that of the Release; and the definition of Released Claims shall not be limited in any way by the possibility that Plaintiffs or Settlement Class Members may discover new facts, legal theories, or legal arguments not alleged in the operative complaint but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Claims.

“PAGA Notices” means the August 25, 2020 and August 31, 2020 letters that Plaintiff Esquivel sent to the California Labor Workforce Development Agency (“LWDA”) pursuant to Labor Code §2699.3(a)(c) seeking to exhaust Plaintiffs’ administrative remedies under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code §§2698, *et seq.*

“PAGA Released Claims” means any and all claims for recovery of civil penalties and attorneys’ fees and costs permissible under PAGA which Plaintiffs and/or the PAGA Group Members had, or may claim to have, against the Released Parties during the PAGA Period, arising from or related to the same set of operative facts as alleged in the Action, or in the PAGA Notices, including: (a) failure to pay overtime; (b) failure to pay sick pay at proper rates; (c) failure to provide complete and accurate wage statements; (d) failure to timely pay wages on termination; and (e) violations of Labor Code Sections 201, 202, 203, 204, 210, 218, 218.5, 218.6, 226, 226.3, 233, 246, 248.5, 510, 558, 1194, 1198, and the applicable IWC Wage Order.

Regardless of whether an individual opts out of the Settlement, all PAGA Group Members will be deemed to have released Blue Line of all PAGA Released Claims.

Questions? Contact the Settlement Administrator toll free at 8-*-***-******

9. *How Will the Attorneys for the Class Be Paid?*

The attorneys for the Class Representatives and the Settlement Class will be paid from the Maximum Settlement Amount. The attorneys are seeking a fee of \$83,333 as well as reimbursement of their costs, up to \$20,000. Plaintiffs are each seeking Service Awards of \$10,000 from the Settlement for their service as Class Representatives. Likewise, the Parties agree that \$25,000 shall be allocated to settle the PAGA claim, with \$18,750 to be paid to the LWDA, and the remaining \$6,250 to be divided on a pro rata basis among the PAGA Group Members and included in their Individual Settlement Payments. The Settlement Administrator estimates that the cost of administration will not exceed \$6,000. All of these amounts are to be deducted from the Maximum Settlement, with the remainder available for distributions to Class Members who do not Opt-Out.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may call Class Counsel, Larry L. Lee (213-488-6555) or email him at lwlee@diversitylaw.com, or call the Settlement Administrator at the telephone number listed below, toll free. Please refer to the Settlement Administrator.

Blue Line Foodservice Distribution, Inc. Settlement Administrator

c/o INSERT

[ADDRESS]

[PHONE NUMBER]

[WEBSITE]

You can find a copy of the Settlement Agreement as well as the Motions for Preliminary and Final Approval on the website of the Blue Line Foodservice Distribution, Inc. Settlement Administrator which is **INSERT URL**.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT OR DEFENDANT’S ATTORNEYS WITH INQUIRIES ABOUT THE SETTLEMENT.

47398192.1

Questions? Contact the Settlement Administrator toll free at 8-*-***-******