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19 **STATE OF CALIFORNIA**

20 **SUPERIOR COURT FOR THE COUNTY OF MONTEREY**

21 ADRIAN HERNANDEZ, an individual, on
22 behalf of himself and on behalf of all persons
23 similarly situated,

24 Plaintiffs,

25 v.

26 SANTA FE MERCADOS, INC., a California
27 Corporation; and Does 1 through 50, Inclusive,

28 Defendants.

Case No.: 21CV000222

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

Complaint Filed: January 26, 2021
Trial Date: None Set

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1 This Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement
2 Agreement”) is made by and between the plaintiff ADRIAN HERNANDEZ (“Plaintiff”), on his
3 own behalf and on behalf of all members of the Settlement Class, as defined below, on the one
4 hand, and defendant SANTA FE MERCADOS, INC. (“Defendant”) on the other hand (Plaintiff
5 and Defendant collectively referred to as the “Parties”), in the lawsuit entitled *Hernandez v. Santa*
6 *Fe Mercados, Inc.* Monterey County Case No. 21CV000222 (the “Litigation”). This Settlement
7 resolves all claims that were asserted or could have been asserted against Defendant based on the
8 facts and allegations in Plaintiff’s Complaint.

9 **I. DEFINITIONS**

10 **A. “Administration Costs”** means all administrative costs of settlement, including
11 costs of notice to the Settlement Class, settlement administration, and any fees and costs incurred
12 or charged by the Settlement Administrator in connection with the execution of its duties under this
13 Settlement.

14 **B. “Class Counsel” or “Plaintiff’s Counsel”** means Timothy B. Del Castillo and Kent
15 Bradbury of Castle Law: California Employment Counsel, PC, and Kyle Nordrehaug of Blumenthal
16 Nordrehaug Bhowmik De Blouw, LLP, and all the lawyers of these firms acting on behalf of
17 Plaintiff and the Settlement Class.

18 **C. “Class Members”** means all current and former hourly-paid or non-exempt
19 employees who worked for Defendant within the State of California at any time during the
20 Settlement Period (collectively referred to as the “Class”).

21 **D. “PAGA Group Members”** means all current and former hourly-paid or non-
22 exempt employees who worked for Defendant within the State of California at any time during the
23 PAGA Period (collectively referred to as the “PAGA Members” or “PAGA Group Members”).

24 **E. “Court”** means the Superior Court of the State of California for the County of
25 Monterey.

26 **F. “Effective Date”** means the date by when both of the following have occurred (1)
27 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (2) the
28 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no

1 Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if
2 one or more Participating Class Members objects to the Settlement, the day after the deadline for
3 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the
4 day after the appellate court affirms the Judgment and issues a remittitur.

5 **H. “Final Approval Order”** as used herein mean the final formal judgment entered by
6 the Court granting final approval of this Agreement.

7 **I. “Plaintiff”** as used herein means Adrian Hernandez.

8 **J. “Net Settlement Amount”** means the Gross Settlement Amount minus any Court-
9 approved award of Attorneys’ Fees to Class Counsel, Litigation Costs to Class Counsel,
10 Administration Costs to the Settlement Administrator, Enhancement Payment to Plaintiff, and
11 LWDA Payment to the Labor and Workforce Development Agency (“LWDA”).

12 **K. “Individual Settlement Payments”** means payments made to the Participating
13 Class Members from the Net Settlement Amount as part of the Settlement.

14 **L. “Settlement”** means the disposition and agreement to resolve the Litigation.

15 **M. “Settlement Administrator”** means ILYM, the settlement administrator selected
16 by the Parties, and which will be responsible for the administration of the Settlement Amount, as
17 defined below, and all related matters. The Parties each represent that they do not have any
18 financial interest in the Settlement Administrator or otherwise have a relationship with the
19 Settlement Administrator that could create a conflict of interest.

20 **N. “Gross Settlement Amount”** means the sum of One Million Dollars
21 (\$1,000,000.00), which shall be paid by Defendant, and from which all Individual Settlement
22 Payments, Court-approved Attorneys’ Fees and Litigation Costs pursuant to Section XIV,
23 Administration Costs pursuant to Section IX, Enhancement Payment pursuant to Section XV, and
24 PAGA Penalties pursuant to Section XVII, except as provided herein.

25 **O. “Settlement Payment”** means the payment of \$1,000,000.00 due upon final
26 approval of the settlement by the Court.

27 **P. “Settlement Class Member”** means a Class Member who does not opt out of the
28 Settlement.

1 **Q. “Class Settlement Period” or “Class Period”** means the period from
2 January 26, 2017, through the date of preliminary approval, or 90 days after the execution of the
3 MOU, whichever is sooner.

4 **R. “PAGA Settlement Period” or “PAGA Period”** means the period from August 20,
5 2019, through the date of approval, or 90 days after the signing of the MOU, whichever is sooner.

6 **S. “Workweeks”** means the number of weeks that a Class Member worked for
7 Defendant as an hourly-paid or non-exempt employee in California during the Settlement Period
8 (based on the number of workweeks in the Class List that Defendant provides to the Settlement
9 Administrator). Each Class Member will be credited with at least one (1) Workweek. A Workweek
10 includes any week in which a Class Member had a time worked entry in Defendant’s timekeeping
11 system.

12 **T. “Individual PAGA Payments”** means the individual payments made to PAGA
13 Group Members from the Gross Settlement Amount for resolution of the PAGA claims.

14 **II. BACKGROUND.**

15 **A.**On or about January 26, 2021, Plaintiff filed a putative wage and hour class action
16 in Monterey County Superior Court, Case No. 21CV000222 (“Wage and Hour Class Action”). On
17 or about January 26, 2021, Plaintiff filed a Private Attorney General Act (“PAGA”) representative
18 action in Monterey County Superior Court, Case No. 21CV000223 (“PAGA Representative
19 Action”). Following a stipulation by the parties, the two cases were consolidated under this matter.

20 In the consolidated class and PAGA action Plaintiff alleges, *inter alia*, on behalf of himself
21 and all others similarly situated, that Defendant violated California state wage and hour laws, the
22 California Business and Professions Code Section 17200 *et seq.* as a result of Defendant’s
23 California wage and hour policies and practices. Specifically, Plaintiff alleges that Defendant
24 committed the following violations: (1) Unfair competition in violation of CAL. BUS. & PROF.
25 CODE §§ 17200, *et seq.*; (2) Failure to pay overtime wages in violation of CAL. LAB. CODE §
26 510; (3) Failure to pay minimum wages in violation of CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
27 ; (4) Failure to provide required meal periods in violation of CAL. LAB. CODE §§ 226.7 & 512
28 and the applicable IWC wage order; (5) Failure to provide required rest periods in violation of

1 CAL. LAB. CODE §§ 226.7 & 512 and the applicable IWC wage order; (6) Failure to provide
2 accurate itemized wage statements in violation of CAL. LAB. CODE § 226; (7) Failure to
3 reimburse employees for required expenses in violation of CAL. LAB. CODE § 2802; (8) Failure
4 to provide wages when due in violation of CAL. LAB. CODE §§ 201, 202 AND 203; and, (9)
5 penalties under PAGA.

6 **B.** Class Counsel conducted discovery concerning the claims set forth in the Litigation,
7 such as class datapoints (including the number of putative class members, workweeks, pay periods,
8 and average hourly rate of pay). Class Counsel also received detailed payroll reports and
9 timekeeping details; and other relevant documents, including but not limited to employee
10 handbooks and stand-alone policies related to the claims at issue during the Class Period.

11 **C.** Plaintiff and Class Counsel have engaged in good faith, arms-length negotiations
12 with Defendant concerning possible settlement of the claims asserted in the Litigation. The Parties
13 participated in mediation before mediator Hon. Howard R. Broadman (Ret.) on April 11, 2024. Mr.
14 Broadman is a well-respected employment law mediator. Negotiations at the mediation and
15 following the mediation resulted in settlement of the Litigation memorialized in this Settlement
16 Agreement. The Parties, with the help of Mr. Broadman, engaged in extensive negotiations about
17 the terms and conditions of the Settlement at the mediation and during the subsequent drafting of a
18 Memorandum of Understanding which was executed by all Parties in April 2024.

19 **D.** Class Counsel has conducted an investigation of the law and facts relating to the
20 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues
21 involved, the defenses asserted by Defendant, the expense and time necessary to pursue the
22 Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation,
23 the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits
24 to be received by Plaintiff and the members of the Class pursuant to this Agreement, that a
25 settlement with Defendant on the terms and conditions set forth herein is fair, reasonable, adequate,
26 and in the best interests of the Class. Plaintiff, on his own behalf and on behalf of the Class, have
27 agreed to settle the Litigation with Defendant on the terms set forth herein.

28 **E.** Defendant has concluded that, because of the substantial expense of defending
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1 against the Litigation, the length of time necessary to resolve the issues presented herein, the
2 inconvenience involved, and the concomitant disruption to their business operations, it is in
3 Defendant's best interest to accept the terms of this Agreement. Defendant denies each of the
4 allegations and claims asserted against them in the Litigation. However, Defendant nevertheless
5 desires to settle the Litigation for the purpose of avoiding the burden, expense, and uncertainty of
6 continuing litigation and for the purpose of putting to rest the controversies engendered by the
7 Litigation.

8 F. This Agreement is intended to and does effectuate the full, final, and complete
9 settlement of all allegations and claims that were asserted or could have been asserted based on the
10 facts alleged, in the Litigation by Plaintiff and members of the Class as set forth in Sections II.A–
11 B.

12 **III. JURISDICTION**

13 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
14 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
15 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
16 final approval of the Settlement and after the Court has ordered the entry of Judgment, pursuant to
17 California Code of Civil Procedure Section 664.6 the Court shall retain jurisdiction of this action
18 solely for the purpose of interpreting, implementing, and enforcing this Settlement consistent with
19 the terms set forth herein.

20 **IV. STIPULATION OF CLASS CERTIFICATION**

21 The Parties stipulate to the certification of the Class for purposes of settlement only. This
22 stipulation is contingent upon the preliminary and final approval and certification of the Class only
23 for purposes of settlement. Should the Settlement not become final, for whatever reason, the fact
24 that the Parties were willing to stipulate provisionally to class certification as part of the Settlement
25 shall have no bearing on, and shall not be admissible in connection with, the issue of whether a
26 class should be certified in a non-settlement context in the Litigation. Defendant expressly reserves
27 the right to oppose class certification and/or proactively move to deny certification should this
28 Settlement be modified or reversed on appeal or otherwise not become final.

1 **V. MOTION FOR PRELIMINARY APPROVAL**

2 Plaintiff will bring a motion before the Court for an order preliminarily approving the
3 Settlement including the Notice of Class Action Settlement (“Notice”), which is attached hereto as
4 “**Exhibit A**”, and including certification of the Class for settlement purposes only.

5 The date that the Court grants preliminary approval of this Agreement will be the
6 “Preliminary Approval Date.” Class Counsel will be responsible for drafting all documents
7 necessary to obtain preliminary approval of the Settlement and will provide these papers to
8 Defendant’s counsel three (3) business days in advance of such filing. Defendant may review and
9 suggest revisions to Plaintiff’s Motion for Preliminary Approval, which Plaintiff will consider.
10 Defendant agrees that they will not oppose Plaintiff’s Motion for Preliminary Approval, nor shall
11 they seek to delay the hearing on this motion for more than thirty (30) days from the date obtained
12 by Plaintiff. This is a material term of the Settlement and any delay or opposition by Defendant
13 will be grounds for Plaintiff to withdraw from the Settlement.

14 **VI. STATEMENT OF NO ADMISSION**

15 **A.** Defendant denies liability to Plaintiff and to the Class upon any claim or cause of
16 action. This Agreement does not constitute and is not intended to constitute, an admission by
17 Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against
18 them in the Litigation.

19 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
20 statements, discussions, or communications, nor any materials prepared, exchanged, issued, or used
21 during the course of the negotiations leading to this Agreement or the Settlement, is intended by
22 the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be
23 admissible in any way in this case or any other judicial, arbitral, administrative, investigative or
24 other forum or proceeding as evidence of any violation of any federal, state, or local law, statute,
25 ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The
26 Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in
27 this case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding,
28 as purported evidence of any violation of any federal, state, or local law, statute, ordinance,

1 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
2 purpose. Notwithstanding the foregoing, this Agreement may be used and filed in any proceeding
3 before the Court that has as its purpose the interpretation, implementation, or enforcement of this
4 Agreement or any orders or judgments of the Court entered in connection with the implementation
5 of the Settlement.

6 C. None of the documents produced or created by Plaintiff or the Class in connection
7 with settlement procedures constitute, and they are not intended to constitute an admission by
8 Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or
9 executive order, or any obligation or duty at law or in equity.

10 D. The Parties agree that class certification pursuant to California Code of Civil
11 Procedure section 382 under the terms of this Agreement is for settlement purposes only. Nothing
12 in this Agreement will be construed as an admission or acknowledgment of any kind that any class
13 should be certified or given collective treatment in the Litigation or in any other action or
14 proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement
15 will be admissible in any court or other tribunal regarding the propriety of class certification or
16 collective treatment. In the event that this Agreement is not approved by the Court or any appellate
17 court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have
18 waived, limited, or affected in any way any claims, rights, or remedies in the Litigation, and
19 Defendant will not be deemed to have waived, limited, or affected in any way any of its objections
20 or defenses in the Litigation.

21 **VII. WAIVER, RELEASE AND CONFIDENTIALITY**

22 **A. Release As to All Settlement Class Members.**

23 The Release of Claims of the Class and PAGA Releases expressly exclude all other claims
24 for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
25 unemployment insurance, disability, social security, workers' compensation, and California class
26 claims outside of the Class Period, and PAGA claims outside of the PAGA period. The claims
27 released by this agreement shall include (i) the Release and Dismissal of the Class Action Claims,
28 and (ii) the Release and Dismissal of the PAGA Claims, as set forth below:

1 1. “Releasees” means Defendant and its current and former affiliates, contractors, parents,
2 divisions, subsidiaries, joint ventures and assigns, successors, predecessors and assigns, partners,
3 related business entities and actual or alleged joint employers and its past or present officers,
4 directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors,
5 consultants, insurers and reinsurers, and their respective successors and predecessors in interest,
6 subsidiaries, affiliates, parents and attorneys, and all persons or entities acting by, through, under
7 or in concert with any of them, and any individual or entity which could be jointly liable with
8 Defendant for any of the Released Claims, including Defendant’s customers.

9 2. Upon final approval by the court, the participating Class Members (i.e., Class Members
10 who do not opt out of the settlement or who have not already released their claims by separate
11 agreement) shall be deemed to have fully, finally, and forever released Releasees from all any and
12 all claims or causes of action that are pled, or that could have been pled, based on the facts alleged
13 in the Complaint, while employed in California as hourly, non-exempt employees by Defendant
14 during the class period, including but not limited to any and all claims, rights, demands, liabilities,
15 and causes of action of every nature and description, including, statutory, constitutional,
16 contractual, or common law claims for wages, damages, unpaid costs, statutory penalties, liquidated
17 damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, which constitute
18 or relate to any one or more of the following categories of claims: (a) unfair competition; (b) failure
19 to pay overtime and/ or double time wages; (c) failure to pay minimum wages; (d) failure to provide
20 compliant meal periods and/or pay complaint meal period premiums; (e) failure to provide
21 compliant rest breaks and/or pay compliant rest break premiums; (f) failure to provide accurate
22 wage statements; (g) failure to reimburse business expenses; (h) failure to timely pay all wages due
23 at termination, including claims for waiting time penalties; (i) any other types of claims that were
24 pled, or could arise out of the facts pled, as part of the Action (“Class Members’ Released Claims”).
25 The Class Members' Released Claims include all claims that arise under the California Labor Code,
26 including under California Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 351, 510,
27 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802; California Business and Professions Code §§ 17200
28 et seq., any applicable California Industrial Welfare Commission Wage Order; and any similar

1 statutes, regulations, ordinances, and laws, to the extent such claims were pled, or could arise out
2 of the facts pled, as part of this action. Class Members who do not submit a timely and valid request
3 for exclusion from the settlement shall be deemed to have fully released all Class Members'
4 Released Claims.

5 The Parties stipulate that beyond the GSA, Defendant shall not owe any further monies to
6 the Participating Class Members based upon the claims made in the Lawsuit, except for paragraph
7 VII(B) below.

8 3. PAGA Released Claims mean any and all claims against Releasees for recovery of civil
9 penalties under PAGA to recover civil penalties, attorneys' fees, litigation costs, which Plaintiff
10 and/or the PAGA Settlement Class had, or may claim to have, that were alleged or could have been
11 alleged based on the facts alleged in Plaintiff's August 20, 2020 letter to the LWDA and the
12 Complaint. These claims are released by Plaintiff in his representative capacity as authorized proxy
13 and agent for the State of California and the LWDA and as a private attorney general acting on
14 behalf of himself and the PAGA settlement employees, for civil penalties under the PAGA,
15 including the alleged violations of Labor Code section 201, 202, 203, 204, 210, 226(a), 226.7, 351,
16 510, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
17 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure
18 to Provide Seating), Violation of Applicable Industrial Commission Wage Order(s), and Pursuant
19 To California Labor Code Section 2699.5.

20 Upon final approval by the court, the LWDA and each eligible aggrieved employee,
21 including Plaintiff, individually and on behalf of his heirs, executors, administrators,
22 representatives, attorneys, successors and assigns, hereby voluntarily and knowingly are barred
23 from bringing any and all claims seeking civil penalties under the California Labor Code predicated
24 on the PAGA Claims alleged in the Complaint, from August 20, 2019 through the date the Court
25 grants preliminary approval, against Defendant and the Releasees. The release of the PAGA Claims
26 is effective, regardless of whether the Class Member submits a timely and valid request for
27 exclusion.

28 **B. General Release by Plaintiff Only.**
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1 In addition to the release made in Section VII (A), Plaintiff makes the additional following
2 general release of all claims, known or unknown. Plaintiff releases the Released Parties from all
3 claims, demands, rights, liabilities and causes of action of every nature and description whatsoever,
4 known or unknown, asserted or that might have been asserted, whether in tort, contract, or for
5 violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection
6 with Plaintiff's relationship with Defendant as well as any and all acts or omissions by or on the
7 part of Defendant. (The release set forth in this Paragraph B shall be referred to hereinafter as the
8 "General Release.")

9 With respect to the General Release, Plaintiff stipulates and agrees that, upon the date on
10 which the Court's Final Approval Order becomes "Final", Plaintiff shall be deemed to have
11 expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and
12 benefits of Section 1542 of the California Civil Code, or any other similar provision under federal
13 or state law, which provides:

14 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
15 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
16 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
17 **RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE**
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

18 This release specifically excludes claims for unemployment insurance, disability, social security,
19 and workers compensation (with the exception of claims arising pursuant to California Labor Code
20 Sections 132(a) and 4553). Accordingly, if the facts relating in any manner to this Settlement are
21 found hereafter to be other than or different from the facts now believed to be true, the release of
22 claims contained herein shall be effective as to all unknown claims.

23 **VIII. SETTLEMENT PAYMENT**

24 **A. Consideration for This Agreement.**

25 As consideration for this Agreement, Defendant will make a settlement payment that totals
26 the Gross Settlement Amount of \$1,000,000.00. The payment of the Gross Settlement Amount
27 represents full and complete settlement of this matter. The Gross Settlement Amount includes all
28 attorneys' fees and costs, administration costs, enhancement award to the class and PAGA

1 representative, payment to the Department of Industrial Relations (“DIR”), and payment to the
2 PAGA Group Members for their Individual PAGA Payments. The balance after deduction of
3 attorneys’ fees and costs, administration costs, payment to the DIR, and payment of the Individual
4 PAGA Payments, the enhancement awards, will be the Net Settlement Amount. Defendant’s
5 employer taxes shall be paid separately and in addition to the Maximum Settlement Amount.

6 **B. Potential Increase to the Settlement Amount.**

7 Defendant represented at mediation that the Class Members worked 103,176 workweeks
8 during the class period, and that the class consisted of approximately 2,999 class members. Should
9 the qualifying workweeks increase beyond 10% worked by the Class Members during the
10 aforementioned period between the date of mediation and the end date of the Class Release Period
11 (as defined above), Defendant shall have the option of: 1) selecting a new end date for the release
12 that limits the number of workweeks to no more than 110% of 103,176; or 2) increasing the Net
13 Settlement Amount proportionally (for any amount over 10%).

14 **IX. SETTLEMENT ADMINISTRATOR**

15 Plaintiff and Defendant, through their respective counsel, have selected ILYM as a
16 Settlement Administrator to administer the Settlement, which includes but is not limited to
17 distributing and responding to inquiries about the Notice, determining the validity of any disputes
18 and opt-outs, and calculating all amounts to be paid from the Net Settlement Fund. Charges and
19 expenses of the Settlement Administrator, estimated to be no more \$19,950.00, will be paid from
20 the Settlement Amount. Any charges and expenses of the Settlement Administrator greater than
21 the allocated \$19,950.00 will be paid from the Settlement Amount. If the actual Administration
22 Costs are less than the Parties’ estimation, the difference between the actual and estimated
23 Administration Costs will be part of the Net Settlement Fund. The Parties agree that this Agreement
24 may be provided to the Settlement Administrator to effectuate its implementation of the settlement
25 procedures herein.

26 **X. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

27 **A. Notice**

1 Plaintiff and Defendant, through their respective attorneys, have jointly prepared the Notice,
2 which in substance will be provided to the Class Members as follows:

3 As soon as practicable following preliminary approval of the Settlement, but no later than
4 twenty-one (21) calendar days after the Court enters the Order granting preliminary approval of the
5 Settlement, Defendant will provide to the Settlement Administrator the following information for
6 each Class Member: (1) full name; (2) last known home address; (3) last known telephone number;
7 (4) dates of employment with Defendant as an hourly-paid or non-exempt employee, as well as
8 hours worked and total workweeks for each class member; (5) total Workweeks during the Class
9 Period; (6) total pay periods worked during the PAGA Period; (7) Social Security number; and (8)
10 last known email address. Defendant further agrees to consult with the Settlement Administrator
11 prior to the production date to ensure that the format will be acceptable to the Settlement
12 Administrator. Plaintiff's Counsel shall also receive a redacted Class List that shall only disclose
13 an identification number attributed to each Class Member and their dates of employment, hours
14 worked, and associated workweeks and pay periods.

15 The Settlement Administrator shall run all the addresses provided through the United States
16 Postal Service NCOA database (which provides updated addresses for any individual who has
17 moved in the previous four years who has notified the U.S. Postal Service of a forwarding address)
18 to obtain current address information and shall mail the Notice to the Class Members via first-class
19 U.S. Mail using the most current mailing address information available, within ten (10) calendar
20 days of the receipt of the Class List from Defendant.

21 The Notice will include information regarding the nature of the Litigation; a summary of
22 the terms of the Settlement; the definition of the Class; a statement that the Court has preliminarily
23 approved the Settlement; the nature and scope of the claims being released; the procedure and time
24 period for objecting to the Settlement, the date and location of the Final Approval Hearing;
25 information regarding the opt-out procedure; the number of Workweeks credited to each Class
26 Member, the estimated Individual Settlement Payment for the Class Member, the number of pay
27 periods during the PAGA Period credited to each Class Member, and the estimated Individual
28 PAGA Payment for the Class Member.

1 If a Notice is returned as undeliverable after the initial mailing, the Settlement Administrator
2 will perform a skip trace in an attempt to locate a more current address. If the Settlement
3 Administrator is successful in locating an updated address, it will re-mail the Notice to the Class
4 Member. Further, any Notices returned with a forwarding address to the Settlement Administrator
5 before the Response Deadline (as defined in Section X.B. below), shall be re-mailed to the
6 forwarding address affixed thereto. With respect to any Notice that is re-mailed, the Response
7 Deadline for the Class Member whose Notice is re-mailed will be extended an additional fifteen
8 (15) calendar days.

9 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
10 Administrator shall provide counsel for Defendant and Class Counsel with a declaration attesting
11 to the completion of the settlement notice administration process, including the number of attempts
12 to obtain valid mailing addresses for and re-sending of any returned Notices, as well as the number
13 of Workweeks Disputes, Requests for Exclusion, and objections received.

14 **B. Objections.**

15 Any Class Member making an objection must not submit a Request to be Excluded (i.e.,
16 must not opt out). To object to the Settlement, a Settlement Class Member may send a written
17 objection to the Settlement Administrator or appear at the Final Approval Hearing with or without
18 submitting a written objection to the Settlement. The Settlement Class Member may appear
19 personally or through an attorney, at his or her own expense, at the Final Approval Hearing to
20 present his or her objection directly to the Court. However, any attorney who will represent an
21 individual objecting to this Settlement must file a notice of appearance with the Court and serve
22 Class Counsel and Defendant's Counsel no later than sixty (60) calendar days after the Notice was
23 initially mailed to the Class Members ("Response Deadline"). A written objection to the Settlement
24 must: (1) contain the case name and number of the Litigation; (2) contain the Settlement Class
25 Member's name, address, telephone number, signature, and last four digits of his or her Social
26 Security number; (3) clearly state the grounds for the objection; (4) state whether the Settlement
27 Class Member intends to appear at the Final Approval Hearing; and (5) be mailed to the Settlement
28 Administrator, postmarked no later than the Response Deadline. If a Class Member objects to the

1 Settlement, the Class Member will remain a Settlement Class Member and if the Court approves
2 this Agreement, the Settlement Class Member will be bound by the terms of the Settlement and
3 Final Approval Order in the same way and to the same extent as a Settlement Class Member who
4 does not object to the Settlement. The date of mailing of the Notice to the objecting Settlement
5 Class Member shall be conclusively determined according to the records of the Settlement
6 Administrator. The Court retains final authority with respect to the consideration and admissibility
7 of any objections to the Settlement from Settlement Class Members.

8 **C. Opportunity to Be Excluded and Defendant's Opt-Out Threshold.**

9 In order for any Class Member to validly exclude himself or herself from the Settlement
10 (i.e., to validly opt out), a written request for exclusion from the Settlement ("Request to be
11 Excluded") must: (1) contain the case name and number of the Litigation; (2) contain the Class
12 Member's full name, address, telephone number, and last four digits of his or her Social Security
13 number; (3) be signed by the Class Member or his or her authorized representative; (4) contain a
14 clear statement that the Class Member requests to be excluded from the Settlement; and (5) be sent
15 to the Settlement Administrator, postmarked by no later than the Response Deadline. The Notice
16 shall contain instructions on how to opt out.

17 The date of the initial mailing of the Notice, and the date the signed Request to be Excluded
18 was postmarked, shall be conclusively determined according to the records of the Settlement
19 Administrator. Any Class Member who timely and validly submits a Request to be Excluded will
20 not be entitled to an Individual Settlement Payment, will not be bound by the terms and conditions
21 of the Settlement, and will not have any right to object, appeal, or comment thereon.

22 Any Class Member who does not timely submit a Request to be Excluded to the Settlement
23 Administrator will be deemed included in the Settlement in accordance with this Settlement. All
24 PAGA Group Members, the LWDA, and State of California shall release claims arising under
25 PAGA for the PAGA Period. All PAGA Group Members shall release claims arising under PAGA
26 regardless of their decision to participate in the class settlement.

27 In the event that ten percent (10%) or more of Class Members opt out of the settlement,
28 Defendant maintain the right, in its sole discretion, to revoke the settlement and their stipulation to

1 class certification within fifteen (15) days of learning that more than ten percent (10%) of Class
2 Members opted out of the settlement. Should Defendant exercise this right, it shall be solely
3 responsible for the costs of settlement administration incurred.

4 **D. Cooperation**

5 The Parties and their respective counsel agree not to encourage members of the Class to
6 refrain from participating in the Settlement, to opt out of the Settlement, or to object to the
7 Settlement, directly or indirectly, through any means. However, if a Class Member contacts Class
8 Counsel, Class Counsel may discuss the terms of the Settlement and the Class Member's options
9 with respect to the Settlement.

10 **XI. DISPUTES PROCEDURE**

11 If a Class Member disputes his or her number of Workweeks set forth in the Notice, such
12 Class Member must submit a written Workweeks dispute ("Workweeks Dispute") that: (a) contains
13 the case name and number of the Litigation; (b) contains the Class Member's full name, address,
14 telephone number, signature, and last four digits of his or her Social Security number; (c) contains
15 a statement setting forth the number of Workweeks that such Class Member believes is correct and
16 attaches any relevant documentation in support thereof; and (d) is submitted to the Settlement
17 Administrator by mail, postmarked no later than the Response Deadline. If a Class Member does
18 not dispute his or her number of Workweeks, the number of Workweeks set forth in the Notice will
19 govern the Individual Settlement Payment to the Class Member and such Class Member need not
20 take further action to participate in the Settlement.

21 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation
22 with Class Counsel and counsel for Defendant, will review the pertinent records showing the dates
23 the Class Member worked for Defendant in California and the number of weeks worked, which
24 records Defendant agrees to make available to the Settlement Administrator and Class Counsel.

25 After consulting with Class Counsel and counsel for Defendant, the Settlement
26 Administrator shall compute the number of Workweeks to be used in computing the Class
27 Member's *pro rata* share of the Net Settlement Fund. In the event that there is a disparity between
28 the number of Workweeks a Class Member claims he or she worked during the Settlement Period

1 and the number of Workweeks indicated by Defendant's records, Defendant's records will control
2 unless inconsistent with records provided by the Class Member (or bona fide copies thereof), in
3 which case the records provided by the Class Member will control. The Settlement Administrator's
4 decision as to the total number of Workweeks shall be final and non-appealable. The Settlement
5 Administrator shall send written notice of the decision on any such dispute to the Class Member,
6 to Class Counsel, and counsel for Defendant within ten (10) calendar days of receipt of the
7 Workweeks Dispute.

8 Should any Class Member timely submit a timely Workweeks Dispute with a deficiency,
9 the Settlement Administrator shall, within five (5) calendar days of receipt, send a deficiency
10 notice. The deficiency notice will provide the Class Member the later of the Response Deadline or
11 fourteen (14) calendar days from the mailing of the deficiency notice to postmark a written response
12 to cure all deficiencies. The failure of a Class Member to timely respond to a notice of deficiency
13 shall invalidate the dispute unless all Parties' counsel agree to allow the dispute.

14 **XII. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

15 **A. Distribution Formula**

16 Settlement Class Members (i.e., Class Members who do not opt out of the Settlement) will
17 receive a lump sum payment as good and valuable consideration for the waiver and release of
18 Released Claims set forth in Section VII(A), above, in an amount determined by the Settlement
19 Administrator in accordance with the provisions of this Agreement.

20 Each Settlement Class Member's Individual Settlement Payment will be determined as
21 follows:

- 22 1. Defendant will calculate the total number of Workweeks of each Settlement Class
23 Member during the Settlement Period.
- 24 2. The value of each Workweek shall be determined by the Settlement Administrator
25 by dividing the Net Settlement Fund by the total number of Workweeks of all
26 Settlement Class Members ("Workweek Point Value").
- 27 3. Each Settlement Class Member's Workweeks will be multiplied by the Workweek
28 Point Value to derive his or her Individual Settlement Payment. Individual

1 Settlement Payments for each Settlement Class Member will be reduced by any
2 required legal deductions for the employee's share of taxes and withholdings on the
3 wages portion of the Individual Settlement Payments.

4 **B. Funding of Settlement**

5 If no objections are filed, payment shall be made by Defendant to the Settlement
6 Administrator within 30 days from the court order granting final approval in full and complete
7 settlement of all PAGA Released Claims and Class Member Released Claims. If objections are
8 filed, payment shall be made within 65 days after final approval if no appeal, or within fifteen (15)
9 days after the appeal is dismissed or withdrawn, or the appeal is decided upholding the propriety
10 of the settlement. At no time prior to the Effective Date shall Defendant be required to escrow any
11 portion of the Settlement Amount.

12 **C. Time for Distribution**

13 The Settlement Administrator shall cause the Settlement Amount (inclusive of the Net
14 Settlement Amount, the Court-approved Attorneys' Fees and Litigation Costs to Class Counsel,
15 Court-approved Enhancement Payment to Plaintiff, Court-approved Administration Costs to the
16 Settlement Administrator, the DIR Payment, and the PAGA Payment to PAGA Group Members)
17 to be distributed within fifteen (15) calendar days following the payment.

18 If an Individual Settlement Payment check is returned to the Settlement Administrator as
19 undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing
20 address by performing a skip trace search and, if another address is identified, shall mail the check
21 to the newly identified address.

22 Any checks issued by the Settlement Administrator to Settlement Class Members and
23 PAGA Group Members will be negotiable for one hundred eighty (180) calendar days. If a
24 Settlement Class Member or PAGA Group Member does not cash his or her settlement check
25 within 180 days, the uncashed funds, subject to Court approval, shall be provided, in equal shares,
26 to the Boys and Girls Club of Monterey County and to the Salvation Army of Monterey County
27 (i.e. 50% of the uncashed funds to the Boys and Girls Club, and 50% of the uncashed funds to the
28 Salvation Army). If the Court does not approve of the uncashed funds being distributed in equal

1 shares to the Boys and Girls Club and the Salvation Army for any reason, the Parties agree that the
2 uncashed funds be provided to the California Unclaimed Property Fund, pursuant to California
3 Civil Procedure Code § 384. The Individual Settlement Payment provided to Settlement Class
4 Members and PAGA Group Members shall prominently state the expiration date or contain a
5 statement that the settlement check will expire in one hundred eighty (180) days, or alternatively,
6 such a statement may be made in a letter accompanying the Individual Settlement Payment.
7 Expired Individual Settlement Payments will not be reissued, except for good cause and as mutually
8 agreed by the Parties in writing. The Parties agree no unclaimed funds will result from the
9 Settlement.

10 The Parties each represent that they do not have any financial interest in the Boys and Girls
11 Club of Monterey County, the Salvation Army of Monterey County, or the California Unclaimed
12 Property Fund, or otherwise have a relationship with these organizations/agencies that could create
13 a conflict of interest.

14 **XIII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

15 The amounts paid under this Agreement do not represent a modification of any previously
16 credited hours of service under any employee benefit plan, policy, or bonus program sponsored by
17 Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or
18 any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant,
19 policies or bonus programs. Any payments made under the terms of this Settlement shall not be
20 applied retroactively, currently, or on a going-forward basis as salary, earnings, wages, or any other
21 form of compensation for the purposes of Defendant's benefit plan, policy, or bonus program.
22 Defendant retains the right to modify the language of its benefit plan, policies, and bonus programs
23 to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for
24 "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by
25 applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or
26 any other purpose, and that additional contributions or benefits are not required by this Settlement.

27 **XIV. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

28 Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall

1 not seek or receive an amount in excess of one-third (33.33%) of the Settlement Amount (i.e.,
2 \$300,000.00) for all past and future attorneys' fees necessary to prosecute, settle and administer the
3 Litigation and this Settlement ("Attorneys' Fees"). Additionally, Defendant shall not oppose an
4 application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess
5 of \$30,000.00, which represents all past and future litigation costs and expenses necessary to
6 prosecute, settle and administer the Litigation and this Settlement ("Litigation Costs"). Any
7 Attorneys' Fees or Litigation Costs awarded to Class Counsel by the Court as part of the Settlement
8 shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement
9 Fund. The "future" aspect of these amounts includes, without limitation, all time and expenses
10 expended by Class Counsel in defending the Settlement and securing preliminary and final approval
11 (including any appeals therein). There will be no additional charge of any kind to either the
12 members of the Class or request for additional consideration from Defendant for such work. The
13 Attorneys' Fees and Litigation Costs shall include all attorneys' fees, litigation costs, and expenses
14 for which Plaintiff and Class Counsel could claim under any legal theory whatsoever with respect
15 to the Litigation. Within fifteen (15) calendar days following the Effective Date, the Settlement
16 Administrator shall disburse payment to Class Counsel from the Settlement Amount for the Court-
17 approved Attorneys' Fees and Litigation Costs. Should the Court approve a lesser percentage or
18 amount of Attorneys' Fees and/or Litigation Costs than the amount that Class Counsel ultimately
19 seeks, then any such unapproved portion or portions shall be part of the Net Settlement Fund to be
20 distributed to Settlement Class Members on a *pro rata* basis.

21 **XV. SERVICE AWARD PAYMENT TO PLAINTIFF**

22 Defendant shall not oppose an application by Plaintiff, and Plaintiff shall not seek or receive
23 an amount in excess of \$10,000.00 each for his participation in and assistance with the Litigation
24 ("Service Award Payment"). Any service award awarded to Plaintiff by the Court as part of the
25 Settlement shall be deducted from the Settlement Amount for the purpose of determining the Net
26 Settlement Fund and shall be reported on IRS Form 1099. If the Court approves an service award
27 payment of less than \$10,000.00 to Plaintiff, then the unapproved portion shall be part of the Net
28 Settlement Fund to be distributed to Settlement Class Members on a *pro rata* basis.

1 **XVI. TAXATION AND ALLOCATION**

2 The Parties agree that all employment taxes and other legally required withholdings will be
3 withheld from payments to the Settlement Class Members and Plaintiff based on the Parties
4 stipulated allocation of the Net Settlement Fund as provided for in this Section.

5 For withholding tax characterization purposes and payment of taxes, the Individual
6 Settlement Payments to Settlement Class Members shall be characterized as five percent (5%)
7 wages and ninety-five percent (95%) penalties and interest. The Individual PAGA Payments shall
8 be characterized as one hundred percent (100%) penalties and interest.

9 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by
10 the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement, by the
11 Settlement Administrator. If the Code, the regulations promulgated thereunder, or other applicable
12 tax law, is changed after the date of this Agreement, the processes set forth in this Section may be
13 modified in a manner to bring Defendant into compliance with any such changes.

14 Finally, the employer’s share of payroll taxes and contributions on the wages portion of
15 Individual Settlement Payments will be paid by Defendant in addition to and not as a deduction
16 from the Settlement Amount.

17 **XVII. PAGA ALLOCATION**

18 In order to implement the terms of this Settlement and to settle claims alleged under the
19 Private Attorneys General Act, California Labor Code section 2698 *et seq.*, the Parties agree to
20 allocate \$75,000.00 from the Settlement Amount as penalties authorized by the PAGA (“PAGA
21 Penalties”). Seventy-five percent (75%), which is \$56,250.00 of the PAGA Penalties will be
22 distributed to the DIR and twenty-five 25%, which is \$18,750.00, of the PAGA Penalties will be
23 distributed on a pro-rata basis to the PAGA Group Members based on the total number of pay
24 periods during the PAGA Period and the number of pay periods worked by the PAGA Group
25 Member during the PAGA Period. Within fifteen (15) calendar days following the payment
26 funding the Settlement, the Settlement Administrator shall disburse the LWDA Payment to the
27 LWDA, and Plaintiff’s Counsel will provide notice to the LWDA of the fact that the Settlement
28

1 has been approved by the Court along with a copy of the Final Approval Order through the
2 appropriate LWDA/DIR website.

3 PAGA Group Members shall receive their portion of the PAGA Payment regardless of their
4 decision to opt-out of the class settlement.

5 **XVIII. COURT APPROVAL**

6 This Agreement and the Settlement is contingent upon final approval by the Court and entry
7 of judgment. Plaintiff and Defendant agree to take all steps as may be reasonably necessary to
8 secure both preliminary approval and final approval of the Settlement, to the extent not inconsistent
9 with the terms of this Agreement and will not take any action adverse to each other in obtaining
10 approval by the Court, and, if necessary, appellate approval, of the Settlement in all respects.
11 Plaintiff and Defendant expressly agree that they will not file any objection to the terms of the
12 Settlement or assist or encourage any person or entity to file any such objection.

13 In the event it becomes impossible to secure approval of the Settlement, the Parties shall be
14 restored to their respective positions in the Litigation, as of the date on which the Settlement was
15 reached.

16 **XIX. MISCELLANEOUS PROVISIONS**

17 **A. Interim Stay of Litigation**

18 Plaintiff and Defendant agree to the stay of all proceedings in the Litigation, including with
19 respect to California Code of Civil Procedure section 583.310, except such proceedings necessary
20 to implement and complete the Settlement, pending Final Approval of the Settlement by the Court.

21 **B. Interpretation of the Agreement**

22 This Agreement constitutes the entire agreement between Plaintiff and Defendant. Except
23 as expressly provided herein, this Agreement has not been executed in reliance upon any other
24 written or oral representations or terms, and no such extrinsic oral or written representations or
25 terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree
26 that this Agreement is to be construed according to its terms and may not be varied or contradicted
27 by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State
28 of California, both in its procedural and substantive aspects, without regard to its conflict of laws

1 provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will
2 be resolved solely and exclusively in the Superior Court of the State of California for the County
3 of Monterey, and Plaintiff and Defendant hereby consent to the personal jurisdiction of the Court
4 over them solely in connection therewith. Plaintiff, on his own behalf and on behalf of the Class,
5 and Defendant participated in the negotiation and drafting of this Agreement and had available to
6 them the advice and assistance of independent counsel. As such, neither Plaintiff nor Defendant
7 may claim that any ambiguity in this Agreement should be construed against the other.

8 The terms and conditions of this Agreement constitute the exclusive and final understanding
9 and expression of all agreements between Plaintiff and Defendant with respect to the Settlement.

10 **C. Further Cooperation**

11 Plaintiff and Defendant and their respective attorneys shall proceed diligently to prepare
12 and execute all documents, to seek the necessary approvals from the Court, and to do all things
13 reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.

14 **D. Confidentiality of Documents**

15 After the expiration of any appeals period, Plaintiff, the Settlement Administrator, and Class
16 Counsel shall maintain the confidentiality of all documents, deposition transcripts, declarations and
17 other information obtained in the Litigation, unless necessary for appeal or such documents are
18 ordered to be disclosed by the Court or by a subpoena.

19 **E. Neutral Employment Reference**

20 Defendant agrees that it will adopt a neutral reporting policy regarding any future
21 employment references related to Plaintiff. In the event that any potential or future employers of
22 Plaintiff request a reference regarding Defendant's employment of Plaintiff, Defendant shall only
23 provide the requested Plaintiff's dates of employment and job titles during employment. Defendant
24 shall not refer to the Action or this Settlement.

25 **F. Counterparts**

26 The Agreement may be executed in one or more actual or non-original counterparts, all of
27 which will be considered one and the same instrument and all of which will be considered duplicate
28 originals.

1 **G. Authority**

2 Each individual signing below warrants that he or she has the authority to execute this
3 Agreement on behalf of the party for whom or for which that individual signs.

4 **H. No Third-Party Beneficiaries**

5 Plaintiff, Settlement Class Members, and Defendant are direct beneficiaries of this
6 Agreement, but there are no third-party beneficiaries.

7 **I. Modification**

8 This Agreement may not be changed, altered, or modified, except in a writing signed by the
9 counsel for the Parties, and approved by the Court. Notwithstanding the forgoing, the Parties agree
10 that any dates contained in this Agreement may be modified by agreement of counsel for the Parties
11 in writing without approval by the Court if the Parties agree and cause exists for such modification.
12 This Agreement may not be discharged except by performance in accordance with its terms or by
13 a writing signed by the Parties.

14 **J. Deadlines Falling on Weekends or Holidays**

15 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
16 legal holiday, that deadline shall be continued until the following business day.

17 **K. California Law Governs**

18 All terms of this Settlement Agreement and Exhibits hereto will be governed and interpreted
19 according to the laws of the State of California.

20 **L. Severability**

21 In the event that any one or more of the provisions contained in this Agreement shall for
22 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
23 unenforceability shall in no way effect any other provision if Defendant's Counsel and Class
24 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as
25 if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

26 **M. Binding on Successors and Assigns**

27 This Settlement Agreement will be binding upon, and inure to the benefit of, the successors
28 or assigns of the Parties hereto, as previously defined.

1 **N. Waiver**

2 No waiver of any condition or covenant contained in this Settlement Agreement or failure
3 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute
4 a further waiver by such party of the same or any other condition, covenant, right or remedy.

5 **O. Enforcement Action**

6 In the event that one or more of the Parties institutes any legal action or other proceeding
7 against any other Party or Parties to enforce the provisions of this Settlement or to declare rights
8 and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover
9 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
10 fees incurred in connection with any enforcement actions.

11 **P. Mutual Preparation**

12 The Parties have had a full opportunity to negotiate the terms and conditions of this
13 Agreement. Accordingly, this Agreement will not be construed more strictly against one Party than
14 another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties,
15 it being recognized that, because of the arms-length negotiations between the Parties, all Parties
16 have contributed to the preparation of this Settlement Agreement.

17 **Q. Representation by Counsel**

18 The Parties acknowledge that they have been represented by counsel throughout all
19 negotiations that preceded the execution of this Agreement, and that this Agreement has been
20 executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Class
21 Counsel warrant and represent that there are no liens on the Agreement.

22 **R. Binding Agreement**

23 The Parties warrant that they understand and have full authority to enter into this Settlement,
24 and further intend that this Settlement Agreement will be fully enforceable and binding on all
25 Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce
26 its terms, notwithstanding any settlement confidentiality provisions that otherwise might apply
27 under federal or state law.

28 **S. Confidentiality/Non-Publicity** - 26 -

1 Plaintiff and his counsel will keep the operative complaint(s), PAGA letter, and this
2 settlement confidential through preliminary approval. Thereafter, Plaintiff and his counsel will
3 further agree to keep this settlement, operative complaint(s), and the PAGA letter confidential,
4 including without limitation no disclosures to current or former employees of the Released Parties,
5 to the media, or on any websites, blogs, social media, and/or online platforms. Exceptions to the
6 obligation of confidentiality in this section are: (i) disclosures necessary to comply with the law,
7 judicial process, or for financial planning or tax preparation purposes; (ii) to obtain, seek, and
8 maintain approval of this settlement in court and as is necessary to provide settlement information
9 to Class Members, and (iii) if any party seeks to enforce any term or condition of this Agreement
10 against any other party. Nothing herein shall prevent Plaintiff's counsel from disclosing this
11 settlement for purposes of describing their qualifications as counsel in other cases or as required by
12 a court, nor shall any terms herein preclude Class Counsel from communicating with and fulfilling
13 its obligations to Class Members or Aggrieved Employees.

14 **T. Non-Retaliation; Non-Discouragement**

15 Defendant agrees not to retaliate against Plaintiff, or any current or former employees, for
16 their support or opposition to this settlement. Plaintiff and Defendant agree to refrain from
17 encouraging any Class Members to opt-out of the settlement. Nothing herein shall prevent
18 Plaintiff's counsel, Defendant, or Defendant's counsel from explaining the settlement and
19 applicable processes to Class Members, or from fulfilling their ethical duties to Class Members.

20 Date: 08/21/24

ADRIAN HERNANDEZ, on behalf of himself
and all others similarly situated

22 
Accepted: 08/21/2024 11:11 PM

23 ADRIAN HERNANDEZ, Plaintiff

24 Date: September 16, 2024

SANTA FE MERCADOS, INC., Defendant

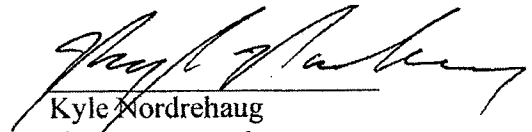
26 
Name: Marlene Ponce

27 Position: Human Resources Manager

1 APPROVED AS TO FORM:

2
3 Date: August 22, 2024

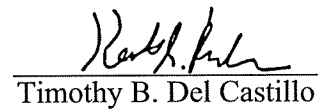
BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

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6 Kyle Nordrehaug
7 *Attorneys for Plaintiff and Proposed Class*
8 Counsel

9 Date: August 21, 2024

CASTLE LAW: CALIFORNIA
EMPLOYMENT COUNSEL, PC

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13 Timothy B. Del Castillo
14 Kent L. Bradbury
15 *Attorneys for Plaintiff and Proposed Class*
16 Counsel

17 Date: September 19, 2024

SAGASER, WATKINS & WIELAND, PC

18 

19 Ian B. Wieland
20 *Attorneys for Defendant*