

1 **CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

2 This Class Action Settlement Agreement and Release of Claims is entered into by and
3 between Plaintiff Jesus M.C. Gonzalez, individually and on behalf of all others similarly
4 situated, and Defendant Frank Carson Landscape & Maintenance, Inc., and is approved by their
5 respective counsel of record, subject to the terms and conditions hereof and the Court's
6 approval.

7 **A. Definitions**

8 1. "Action" or "Lawsuit" means and refers to the case entitled *Jesus M.C.*
9 *Gonzalez, an individual, on behalf of himself and on behalf of all others similarly situated, v.*
10 *Frank Carson Landscape & Maintenance, Inc.*, Sacramento County Superior Court Case No.
11 34-2020-00289370-CU-OE-GDS.

12 2. "Settlement Agreement," "Settlement," "Agreement," or "Stipulation" shall
13 mean this Class Action Settlement Agreement and Release of Claims, including any attached
14 Exhibits.

15 3. "Claims" means all lawsuits, arbitrations, causes of action, complaints,
16 obligations, demands, liabilities, or claims of any kind, whether in law or in equity, known or
17 unknown, direct or indirect, asserted or unasserted, liquidated or unliquidated, by Releasing
18 Parties.

19 4. "Class Counsel" refers to Mehrdad Bokhour of Bokhour Law Group, P.C. and
20 Jonathan Melmed of Melmed Law Group P.C.

21 5. "Class Data" means a complete list that Defendant will diligently and in good
22 faith compile from its records and provide to the Settlement Administrator on one spreadsheet
23 and shall include the Settlement Class Members' full names; last known addresses; telephone
24 numbers; Social Security Numbers; Workweeks Worked; and dates of employment as non-
25 exempt employees of Defendant during the Class Period for each Settlement Class Member.

26 6. "Class Period" is deemed to be the period of November 20, 2016 through July
27 21, 2021, or Preliminary Approval Date, whichever occurs earlier.

28 7. "Class Representative" or "Plaintiff" means and refers to Jesus M.C. Gonzalez.

8. “Complaint” refers to the First Amended Class and PAGA Representative Action Complaint filed in the Sacramento County Superior Court action entitled *Jesus M.C. Gonzalez v. Frank Carson Landscape & Maintenance, Inc.*, Case No. 34-2020-00289370-CU-OE-GDS.

9. “Court” means the California Superior Court, County of Sacramento, or any Court of competent jurisdiction.

10. “Defendant” means and refers to Frank Carson Landscape & Maintenance, Inc.

11. “Defendant’s Counsel” or “Defense Counsel” means and refers to Ryan E. Abernethy and Katie A. Collins, both of Weintraub Tobin.

12. “Effective Date” means the latest of the following dates: (i) if no Class Member objects, timely and properly intervenes, or files a motion to vacate the judgment approving the Settlement Agreement under Code of Civil Procedure § 663, then the date the Court enters an order granting Final Approval of the Settlement; (ii) if a Class Member objects, intervenes, or files a motion to vacate the judgment approving the Settlement Agreement, then sixty-one (61) calendar days following the date the Court enters an order granting final approval of the Settlement, assuming no appeal is filed; or (iii) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final judicial approval of the Settlement.

13. “Final” means that the Settlement has been granted “Final Approval” by the Court and the “Effective Date” has occurred.

14. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Settlement on substantially the terms provided herein or as the same may be modified by subsequent agreement of the Parties.

15. “Final Settlement Class” means, collectively, all Settlement Class Members who have not opted out of the Settlement Class by submitting timely Requests for Exclusion.

16. “Individual Settlement Amount” shall have the meaning ascribed to it in Paragraph 44(d) below.

17. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 44(c) below.

1 18. “Notice” means the notice of settlement of class action that will be sent to the
2 Settlement Class Members.

3 19. “Notice Response Deadline” is 45 calendar days from the date the Notice is
4 mailed to the Settlement Class Members.

5 20. “Objecting Settlement Class Member” means a Settlement Class Member, other
6 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement,
7 pursuant to Paragraph 63(a) below.

8 21. “Obligations” means all obligations, duties, liabilities, agreements, promises,
9 damages, costs, penalties, interest, fees (including without limitation attorney’s fees), losses,
10 expenses, and debts of any kind or nature whatsoever, whether known or unknown, direct or
11 indirect, asserted or unasserted, liquidated or unliquidated, by the Releasing Parties.

12 22. “Participating Class Member” means any and all Settlement Class Members who
13 are deemed to participate and receive an Individual Settlement Amount and/or do not opt-out by
14 submitting timely valid Requests for Exclusion.

15 23. “Parties” or “Settling Parties” mean Plaintiff, the Settlement Class, and
16 Defendant, collectively.

17 24. “Workweeks Worked” for each Settlement Class Members means any workweek
18 during the Class Period in which the Settlement Class Member was employed by Defendant as a
19 non-exempt employee in California and worked at least one shift during the workweek.

20 25. “Preliminary Approval Date” means the date the Court preliminarily approves
21 the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

22 26. “Preliminary Approval Order” means the judicial Order to be entered by the
23 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
24 and providing for the issuance of the Notice to the Settlement Class, an opportunity to opt out of
25 the Settlement, an opportunity to submit timely objections to the Settlement, and setting a
26 hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees and
27 costs. Defendant will not object to Plaintiff’s motion for preliminary approval as long as it
28 comports with the terms of this Agreement.

1 27. “QSF” means the Qualified Settlement Fund set up by the Settlement
2 Administrator for the benefit of the Final Settlement Class, and from which the settlement
3 payments shall be made, and which is intended to be a fund that qualifies under Internal
4 Revenue Code Sec. 468.

5 28. “Released Claims” by the Releasing Parties upon Final Approval of the
6 Settlement will include all claims that the Releasing Parties ever had or now have against the
7 Released Parties arising out of or relating to all wage-and-hour matters that Releasing Parties
8 are releasing, acquitting and forever discharging, including without limitation the following:

9 a. Claims and Obligations (including but not limited to those under federal, state, or
10 local statute, rule or regulation) that the Releasing Parties allege or could have alleged or pled
11 based on the factual allegations or predicate in the Lawsuit, including any and all Claims and
12 Obligations involving: (1) failure to pay all minimum wages, (2) failure to pay all overtime
13 wages, (3) failure to provide rest breaks and/or pay missed rest period premiums, (4) failure to
14 provide meal breaks and/or pay missed meal period premiums, (5) failure to pay wages timely
15 during employment, (6) failure to pay all wages earned and unpaid at separation, (7) failure to
16 indemnify all necessary business expenditures, (8) failure to furnish accurate itemized wage
17 statements, (9) unfair competition, and (10) PAGA penalties;

18 b. Claims and Obligations relating to wages and benefits including, without
19 limitation, compensation, salary, commissions, incentive pay, overtime, regular rate of pay,
20 meal and rest breaks, paychecks, wage statements, waiting time, expense reimbursement,
21 payroll periods, pay cycles, pay dates, final paychecks, use of personal cell phones for business
22 purposes, time reporting, rounding of time clock entries, off-the-clock work, wage recapture,
23 classification as exempt or non-exempt employees, health and welfare benefits, relocation,
24 separation pay, severance pay, notice pay, paid time off, sick pay, bonuses, and/or
25 compensation and benefits of any kind; and

26 c. This does not prohibit Releasing Parties from participating in an Equal
27 Employment Opportunity Commission, the state Department of Fair Employment and Housing,
28 or any other federal, state or local administrative agency investigation or proceeding. It also

1 does not preclude Releasing Parties from filing claims for workers' compensation or
2 unemployment benefits, or from any other claims or rights that are not waivable as a matter of
3 law.

4 29. "Released Parties" means Defendant, together with its current and former
5 officers, administrators, directors, owners, members, managers, shareholders, staff, employees,
6 attorneys, agents, subsidiaries, operators, partners, successors, benefit plan fiduciaries and
7 agents, and assignees.

8 30. "Release Period" shall be the time period governing the Released Claims which
9 shall be any time from November 20, 2016 through July 21, 2021, or Preliminary Approval
10 Date, whichever occurs earlier.

11 31. "Release" shall mean the release and discharge of the Released Claims by
12 Plaintiff and all of the Participating Class Members.

13 32. "Releasing Parties" means all Participating Class Members and all Participating
14 Class Members' heirs, assigns, agents, representatives, administrators, and executors.

15 33. "Request for Exclusion" shall have the meaning ascribed to it in Paragraph 63(a)
16 below.

17 34. "Service Payment" or "Service Award" means the amount approved by the Court
18 to be paid to the Class Representatives in addition to their Individual Settlement Amount as a
19 Participating Class Member.

20 35. "Settlement Administrator" means and refers to the third-party class action
21 settlement administrator agreed to by the Parties, that will provide the Notice to the Class
22 Members and distribute the settlement amounts as described in this Agreement.

23 36. "Settlement Administration Costs" means the costs payable from the Settlement
24 Amount to the Settlement Administrator for administering this Settlement, including, but not
25 limited to, printing, distributing, and tracking documents for this Settlement, translating the
26 class notice into Spanish, tax reporting, unclaimed property due diligence, reporting and
27 remittance obligations, distributing the Settlement Amount, and providing necessary reports and
28 declarations, as requested by the Parties. The Settlement Administration Costs shall be paid

1 from the Settlement Amount.

2 37. "Settlement Amount" or "Gross Settlement Amount" shall have the meaning
3 ascribed to it in Paragraph 47(a) below.

4 38. "Settlement Class" or "Covered Position" is defined as "All current and former
5 non-exempt and/or hourly employees employed by Defendant in California at any time during
6 the Class Period."

7 39. "Settlement Class Member" or "Class Member(s)" refers to individual members
8 of the Settlement Class.

9 **B. General Terms**

10 40. On November 20, 2020, Plaintiff Jesus M.C. Gonzalez filed against Defendant a
11 class action complaint for claims, including: (1) failure pay all minimum wages, (2) failure to
12 pay all overtime wages, (3) failure to provide rest breaks and/or pay missed rest period
13 premiums, (4) failure to provide meal breaks and/or pay missed meal period premiums, (5)
14 failure to pay wages timely during employment, (6) failure to pay all wages earned and unpaid
15 at separation, (7) failure to indemnify all necessary business expenditures, (8) failure to furnish
16 accurate itemized wage statements, and (9) unfair competition. On or about May 12, 2021,
17 Plaintiff amended his complaint to add a cause of action for PAGA penalties based on the
18 foregoing Labor Code violations.

19 41. Defendant denies Plaintiff's claims and allegations and contends that the Action
20 is not suitable for class certification and/or representative treatment.

21 42. The Class Representative believes he can proceed with his representative and
22 class claims, that the Action is meritorious, and that class certification is appropriate.

23 43. The Parties have conducted a thorough investigation into the facts of the Action.
24 This includes conducting extensive exchange of informal discovery, including Defendant's
25 written policies and practices and the production of payroll and timekeeping records for
26 Settlement Class Members. Class Counsel is both knowledgeable about and has done extensive
27 research with respect to the applicable law and potential defenses to the claims of the Settlement
28 Class. Class Counsel has diligently pursued an investigation of the Class Members' claims

1 against Defendant. Based on the foregoing data and on their own independent investigation and
2 evaluation, Class Counsel is of the opinion that the settlement with Defendant for the
3 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and
4 adequate and is in the best interest of the Class Members in light of all known facts and
5 circumstances, including the risk of significant delay and uncertainty associated with litigation,
6 various defenses asserted by Defendant, and numerous potential appellate issues.

7 44. On May 18, 2021, the Parties participated in mediation before David Lowe, Esq.,
8 a highly experienced wage and hour class action mediator. The matter did not resolve at
9 mediation, but the Parties continued to pursue negotiations with the assistance of the mediator
10 that ultimately resulted in this Settlement.

11 45. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
12 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and
13 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
14 any statute or law or liability on the claims or allegations in the Action.

15 46. Stipulation for Class Certification. For settlement purposes only, Defendant will
16 stipulate that the Settlement Class Members described herein who do not Request Exclusion
17 from the Settlement Class may be conditionally certified as a settlement class. This stipulation
18 to certification is in no way an admission that class action certification and/or representative
19 treatment is proper and shall not be admissible in this or in any other action except for the sole
20 purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final
21 Approval, the Parties' stipulation to class certification as part of the Settlement shall become
22 null and void *ab initio* and shall have no bearing on and shall not be admissible in connection
23 with the issue of whether or not class certification and/or representative treatment would be
24 appropriate in a non-settlement context. Defendant expressly reserves its rights and declares
25 that it will continue to oppose class certification and the substantive merits of the case should
26 the Court fail to issue Final Approval. Plaintiff expressly reserves his right and declares that he
27 will continue to pursue class certification and representative treatment and a trial should the
28 Court fail to issue Final Approval.

1 **C. Terms of Settlement**

2 47. The financial terms of the Settlement are as follows:

3 (a) Gross Settlement Amount: The Parties agree to settle this Action for One
4 Million One Hundred Thousand Dollars (\$1,100,000) (“the Settlement Amount”). The
5 Settlement Amount is the maximum amount that will be paid by Defendant, and includes
6 Individual Settlement Amounts, attorneys’ fees of Class Counsel, costs and expenses, the
7 Service Payment to the Class Representative, Settlement Administration Costs, and payment to
8 the Labor Workforce Development Agency (LWDA) for PAGA penalties. Defendant shall
9 separately pay the employers’ share of the payroll taxes.

10 (b) The Settlement is based on Defendant’s representation that there are
11 approximately 35,000 Workweeks Worked included in the Class Period. If it is determined that
12 the number of Workweeks Worked exceeds 35,000 by over ten percent (or over 38,500
13 Workweeks), Defendant shall *pro rata* increase the Net Settlement Amount, but such amount
14 shall in no condition exceed more than \$40.00 per each additional Workweek Worked over
15 38,500.

16 (c) Net Settlement Amount: The “Net Settlement Amount” is defined as the
17 Settlement Amount less attorneys’ fees and litigation costs as approved and awarded by the
18 Court, the Service Payment to the Class Representatives as approved and awarded by the Court,
19 the Settlement Administration Costs, and the Twenty-Five thousand dollars (\$25,000) allocated
20 to payment for PAGA penalties as described in paragraph 47(i) below. In the event that the
21 Court reduces the attorneys’ fees, costs, expenses, Service Awards, or either increases or
22 decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be adjusted
23 accordingly and allocated to the Settlement Class.

24 (d) Individual Settlement Amounts for the Settlement Class: From the Net
25 Settlement Amount, the Settlement Administrator will use the Class Data provided by
26 Defendant to calculate each Participating Class Member’s Individual Settlement Amounts based
27 on the following formula:

28 i. PAGA Amount: \$25,000 of the Gross Settlement Amount has been

1 designated to the PAGA claims. Twenty-five percent (25%) of the \$25,000, or \$6,250 shall be
2 paid out to Settlement Class Members. Each Settlement Class Member shall receive a portion
3 of the \$6,250 proportionate to the number of Workweeks Worked by the Settlement Class
4 Member during the Class Period compared to the total number of Workweeks Worked by all
5 Settlement Class Members during the Class Period.

6 ii. Class Amount: The Net Settlement Amount shall be allocated to
7 Participating Class Members based on his or her proportionate Workweeks Worked during the
8 Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the
9 numerator which is the Participating Class Member's total Workweeks Worked during the Class
10 Period, and the denominator of which is the total Workweeks Worked by all Participating Class
11 Members during the Class Period. If there are any timely submitted Requests for Exclusion, the
12 Settlement Administrator shall proportionately increase the Individual Settlement Amounts for
13 each Participating Class Member so that the amount actually distributed to Participating Class
14 Members equals 100% of the Net Settlement Amount.

15 (e) Allocation of Individual Settlement Amounts: The Individual Settlement
16 Amounts will be allocated based on the allegations in the Action as follows: twenty (20%)
17 percent will be paid as wages subject to withholding of all applicable local, state, and federal
18 taxes; and eighty (80%) will be paid as interest and as penalties (pursuant to, e.g., California
19 Labor Code sections 203, 226) from which no taxes will be withheld. The Settlement
20 Administrator will issue to each Participating Class Member an Internal Revenue Service Form
21 W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with
22 respect to the penalties and interest allocations.

23 (f) Service Payment to Class Representative: The amount awarded to the Class
24 Representative as a Service Payment will be set by the Court in its discretion, not to exceed
25 \$10,000. Defendant agrees not to oppose this request. The Service Payment to Plaintiff will be
26 paid out of the Gross Settlement Amount. The Class Representative will be issued IRS Form
27 1099 in connection with this payment. Plaintiff shall be solely and legally responsible to pay
28 any and all applicable taxes on this payment. The Parties agree that any amount awarded as the

1 Service Payment to Plaintiff less than the requested amount shall not be a basis for Class
2 Counsel to void this Stipulation. Should the Court approve a lesser amount for the Service
3 Payment, the difference shall be added to the Net Settlement Amount to be distributed to the
4 Participating Class Members.

5 (g) Attorneys' Fees and Costs: Defendant agrees to not oppose a request by Class
6 Counsel to the Court for an award of attorneys' fees of one third of the Settlement Amount, plus
7 reasonable litigation costs not to exceed \$15,000 ("Attorney's Fees and Cost Award"). For
8 purposes of this Settlement, Defendant agrees not to oppose any contention by Class Counsel
9 that attorneys' fees should be based on the common fund theory, provided the request is for no
10 more than one third of the Settlement Amount. The Attorney's Fee and Cost Award shall be
11 paid from the Gross Settlement Amount, and except for this award, Defendant shall have no
12 further obligation to pay any attorneys' fees, costs, or expenses to Class Counsel. Should the
13 Court approve a lesser amount than what is sought by Class Counsel, the difference shall be
14 added to the Net Settlement Amount to be distributed to the Participating Class Members. Any
15 Court order awarding less than the amount sought by Class Counsel shall not be grounds to
16 rescind the Settlement Agreement or otherwise void the Settlement. The Settlement
17 Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of
18 attorneys' fees and costs awarded by the Court. Class Counsel agrees that any allocation of fees
19 between or among Class Counsel and any other attorney representing or claiming to represent
20 the Class Members shall be the sole responsibility of Class Counsel.

21 (h) Settlement Administration Costs: The fees and other charges of the Settlement
22 Administrator will be paid from the Gross Settlement Amount, not to exceed \$15,000, unless
23 approved by all Parties and the Court.

24 (i) PAGA Penalties: The Parties agree that \$25,000 is allocated to PAGA Penalties
25 and is to be paid from the Gross Settlement Amount, subject to Court approval. Of this amount,
26 \$18,750 (75%) shall be paid to the LWDA in satisfaction of Plaintiff's claims for penalties
27 under the Private Attorney General Act of 2004 ("PAGA") and \$6,250 (25%) will be included
28 in the Individual Settlement Amounts, payable to the Participating Class Members.

1 (j) Tax Liability: Class Counsel, Defendant and Defendant's Counsel make no
2 representations as to the tax treatment or legal effect of Settlement Amounts called for
3 hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or
4 representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiff
5 and Participating Class Members understand and agree that they will be solely responsible for
6 the payment of any taxes and penalties assessed on their respective Settlement Amounts
7 described herein. The amount of federal income tax withholding will be based upon a flat
8 withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-
9 1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to
10 applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099
11 will be distributed at times and in the manner required by the Internal Revenue Code of 1986
12 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated
13 thereunder, or other applicable tax law, is changed after the date of this Agreement, the
14 processes set forth in this Section may be modified in a manner to bring Defendant into
15 compliance with any such changes.

16 (k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT
17 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH
18 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
19 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF
20 THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
21 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER
22 ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
23 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
24 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
25 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
26 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
27 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
28 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 ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'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.

48. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendant. Participating Class Members will not have to make a claim in order to receive an Individual Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to each Participating Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Participating Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth herein.

49. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. Release by Plaintiff and the Settlement Class

50. Upon the Effective Date of this Settlement, Plaintiff, and each Participating Class Member and Releasing Parties, for themselves and for their respective spouses, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, will forever completely release and discharge the Released Parties from the Released Claims for the Release Period.

1 51. Each Participating Class Member will be deemed to have made the foregoing
2 Release as if by manually signing it.

3 52. Plaintiff and Defendant intend that the Settlement described in this Agreement
4 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
5 arbitration, demand, or other action of any kind, by each and all of the Participating Class
6 Members to obtain a recovery based on, arising out of, and/or related to any and all of the
7 Released Claims. The Class Members shall be so notified in the Notice. This paragraph does
8 not apply to any Class Member who timely and validly opts out of the Settlement.

9 53. Class Representative, on behalf of himself and the Settlement Class,
10 acknowledge and agree that the claims for unpaid wages in the Action, and untimely payment of
11 wages in the Action, are disputed, and that the payments set forth herein constitute payment of
12 all sums allegedly due to her. Class Representative, on behalf of himself and the Settlement
13 Class, acknowledge and agree that California Labor Code Section 206.5 is not applicable to the
14 Parties hereto. Section 206.5 provides in pertinent part as follows:

15 An employer shall not require the execution of any release of any claim or right
16 on account of wages due, or to become due, or made as an advance on wages to
17 be earned, unless payment of those wages has been made.

18 **E. Release by Class Representative**

19 54. In addition to the Class Representative's release of the Released Claims as
20 discussed in Paragraph 50 above, Class Representative does hereby, for himself and for his
21 respective spouses, heirs, successors, beneficiaries, devisees, legatees, executors, administrators,
22 trustees, conservators, guardians, personal representatives, and assigns forever and completely
23 release and discharge the Released Parties from any and all charges, complaints, claims,
24 liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action,
25 suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory
26 penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and
27 costs) of any nature whatsoever, from the beginning of time through the execution of this
28 Stipulation, whether known or unknown, suspected or unsuspected, including but not limited to

1 all claims arising out of, based upon, or relating to Class Representatives' employment with
2 Defendant or the remuneration for or termination of such employment (collectively, the "Class
3 Representatives' Claims").

4 55. Without limiting the generality of the foregoing, Class Representative expressly
5 releases all claims or rights against Released Parties arising out of or relating to alleged
6 violations of any contracts, express or implied (including but not limited to any contract of
7 employment); any contract or covenant of good faith and fair dealing (express or implied); any
8 tort, including but not limited to, negligence, fraud, misrepresentation and violation of
9 California Labor Code section 970, negligent infliction of emotional distress, intentional
10 infliction of emotional distress, defamation, "retaliation" claims and claims for violation of
11 public policy, any claim for improper or unauthorized wage deductions, failure to pay the
12 applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other
13 damages, overtime, and alleged "off the clock" work under federal and state law, including, but
14 not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to
15 California Labor Section 203, damages or penalties pursuant to California Labor Code Section
16 226, meal period and rest break payments and penalties pursuant to California Labor Code
17 Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California
18 Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections
19 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, unfair
20 competition and unfair business practices pursuant to Business and Professions Code Section
21 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California
22 Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs,
23 including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the
24 Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged
25 violation or breach of any other state or federal statute, rule and or regulation; including all
26 applicable Industrial Welfare Commission Wage Orders, and all similar causes of action,
27 including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs
28 or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional

distress, intentional infliction of emotional distress, and defamation; any “wrongful discharge,” “constructive discharge,” and “retaliation” claims; any claims relating to any breach of public policy; any legal restrictions on Defendant’s right to discharge employees; and any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government Code § 12900 *et seq.* (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), or age, including retaliation for reporting discrimination or harassment); (7) California Family Rights Act, Cal. Government Code § 12945.1 *et seq.* (family/medical leave); (8) California Labor Code, including Section 1720 *et seq.*, or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (10) Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; and (13) Employee Retirement Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits).

56. Class Representative expressly waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of the State of California and does so understanding and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

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.

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Class Representatives and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Class Representatives knew of, as well as all claims that they do not know or suspect to exist in their favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Class Representatives' claims.

F. Interim Stay of Proceedings

57. Pending completion of all of the prerequisites necessary to effectuate this Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such as are necessary to effectuate the Settlement, including amending the operative complaint.

G. Notice Process

58. Appointment of Settlement Administrator. The Parties have agreed to the appointment of the Settlement Administrator to perform the duties of a settlement administrator, including mailing the Notice, using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims or opt-out requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Amounts, drafting and mailing the settlement checks to Participating Class Members, issuing W-2 and 1099 Tax Forms, unclaimed funds due diligence, reporting and remittance obligations, and performing such other tasks as set forth herein or as the Parties mutually agree or that the Court orders.

59. Disputes Regarding Settlement Administration. Any and all disputes relating to administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendant notify the Court that all payments and obligations contemplated by this Settlement Agreement have

1 been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will
2 confer in good faith to resolve the dispute without the necessity of Court intervention. The
3 Settlement Administrator shall also be responsible for issuing to Plaintiff, Settlement Class
4 Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by law for
5 all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be
6 responsible for setting up all necessary tax accounts and forwarding all payroll taxes and
7 penalties to the appropriate government authorities.

8 60. Class Data. Within ten (10) calendar days after entry of the Preliminary
9 Approval Order, Defendant shall provide the Class Data to the Settlement Administrator. The
10 Settlement Administrator will run a check of the Class Members' addresses against those on file
11 with the U.S. Postal Service's National Change of Address List. The Class Data provided to the
12 Settlement Administrator will remain confidential, shall be used solely to administer the
13 Settlement, and will not be used or disclosed to anyone, except as required by applicable tax
14 authorities, pursuant to Defendant's express written consent, or by order of the Court.

15 61. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
16 Administrator to the Settlement Class Members, by first class mail, in English and Spanish,
17 within ten (10) calendar days following the Settlement Administrator's receipt of the Class
18 Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain
19 forwarding addresses of Settlement Class Members if any envelopes are returned.

20 62. Returned Notices. The Settlement Administrator will take steps to ensure that
21 the Notice is received by all Settlement Class Members, including utilization of the National
22 Change of Address Database maintained by the United States Postal Service to review the
23 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Class
24 Member for whom an updated address is located within ten (10) calendar days following both
25 the Settlement Administrator learning of the failed mailing and its receipt of the updated
26 address. The Notice shall be identical to the original Notice, except that it shall notify the Class
27 Member that the exclusion (opt-out) request or objection must be returned by the later of the
28 Notice Response Deadline or fifteen (15) days after the remailing of the Notice.

63. Presumption Regarding Receipt of Notice. It will be conclusively presumed that if an envelope has not been returned within thirty (30) days of the mailing that the Settlement Class Member received the Notice.

64. Disputes Regarding Class Data. Class Members are deemed to participate in the Settlement, unless they opt-out. The Notice will inform Class Members of his/her estimated Individual Settlement Amount and the number of Weeks Worked during the Class Period. Class Members may dispute their Weeks Worked if they feel they were employed more workweeks in the Class Period in California than Defendant's records show by timely submitting evidence to the Settlement Administrator. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. Class Members will have until the Notice Response Deadline to dispute Workweeks Worked, object or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Workweeks Worked for any Settlement Class Member, then the Settlement Administrator will recalculate the Pay Period Value; accordingly, in no event will Defendant be required to increase the Gross Settlement Amount.

65. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) days prior to the final approval hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

66. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the settlement, and the ability to opt-out or request exclusion from the Settlement. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement in accordance with the following guidelines:

1 (a) Requests for Exclusion from Settlement Class. Any Settlement Class
2 Member, other than Plaintiff, may request to be excluded from the Settlement Class by
3 submitting a “Request for Exclusion” to the Settlement Administrator, postmarked on or before
4 the Notice Response Deadline. The Request for Exclusion should state:

5 “I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS
6 IN THE GONZALEZ V. FRANK CARSON LANDSCAPE &
7 MAINTENANCE, INC. LAWSUIT. I UNDERSTAND THAT IF I
8 ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I
9 WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT
10 OF THIS LAWSUIT.”

11 Any Request for Exclusion must include the full name, address, telephone number, last
12 four digits of the social security number or date of birth, and signature of the Settlement Class
13 Member requesting exclusion. The Request for Exclusion must be returned by mail to the
14 Settlement Administrator at the specified address. Any such Request must be made in
15 accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only
16 if postmarked by the Notice Response Deadline unless the Parties otherwise agree in writing.
17 Any Settlement Class Member who timely requests exclusion in compliance with these
18 requirements: (i) will not have any rights under this Agreement, including the right to object,
19 appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under
20 this Agreement; and (iii) will not be bound by this Agreement, or the Judgment.

21 (b) Binding Effect on Final Settlement Class Members. Except for those
22 Settlement Class Members who exclude themselves in compliance with the procedures set forth
23 above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for
24 all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
25 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
26 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
27 reasonableness, and adequacy of the Settlement.

28 (c) Objections to Settlement. Any Settlement Class Member, other than
Plaintiff, may object to the terms of this Agreement. To object, a Settlement Class Member
shall inform the Settlement Administrator, in writing, of his or her objection which must be

1 postmarked by the Notice Response Deadline at the address set forth in the Notice. Such
2 objection shall include the full name, address, telephone number, dates of employment with
3 Defendant of the Objecting Settlement Class Member, the case name and number, the basis for
4 the objection, including any legal support and each specific reason in support of the objection,
5 as well as any documentation or evidence in support thereof, and, if the Objecting Settlement
6 Class Member is represented by counsel, the name and address of his or her counsel. If any
7 Objecting Settlement Class Member wishes to speak at the Final Approval Hearing, that
8 Objecting Settlement Class Member's written submission should include a request to be heard,
9 and the Court will determine whether Objecting Settlement Class Members will be permitted to
10 speak. The Settlement Administrator shall provide objections, if any, to Class Counsel and
11 Defense Counsel within three (3) days of receipt, and the Settlement Administrator shall attach
12 the same to its declaration of due diligence it files with the Court prior to the Final Approval
13 Hearing. Any Participating Class Member who files an objection remains eligible to receive
14 monetary compensation from the Settlement. Plaintiff and Defendant shall not be responsible
15 for any fees, costs, or expenses incurred by any Class Member and/or his or her counsel related
16 to any objections to the Settlement. Submitting an objection does not preserve the right to
17 appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record
18 by timely and properly intervening or filing a motion to vacate the judgment under Code of
19 Civil Procedure § 663.

20 (d) Failure to Object. Any Settlement Class Member who desires to object
21 but fails to timely submit a written objection waives any right to object and will be foreclosed
22 from making any objection to this Settlement. Any Settlement Class Member who does not
23 timely and properly become a party of record by intervening or filing a motion to vacate the
24 judgment waives any and all rights to appeal from the Judgment, including all rights to any
25 post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment,
26 motion for new trial, a motion under California Code of Civil Procedure section 473, and
27 extraordinary writs.
28

1 (e) Responses to Objections. Counsel for the Parties may file a response to
2 any objections submitted by Objecting Settlement Class Members at least five (5) court days
3 before the date of the Final Approval Hearing.

4 67. Settlement Class Members will have until the Notice Response Deadline to
5 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
6 Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what
7 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
8 request of Class Counsel or Defense Counsel.

9 68. Funding of the Settlement Amount. Defendant shall make a one-time deposit
10 into the QSF of the Settlement Amount, as described in Paragraph 44(a) that is necessary to
11 make all payments required under this Settlement, within fourteen (14) calendar days after
12 Effective Date of the Settlement, plus Defendant shall separately pay the employer's share of
13 the payroll taxes.

14 69. Distribution of Funds. No later than ten (10) calendar days after deposit of the
15 Settlement Amount into the QSF, the Settlement Administrator will mail the payments to the
16 Participating Class Members, the payment for the attorneys' fees and costs to Class Counsel,
17 any Service Payment to the Class Representative, the payment to the LWDA for PAGA
18 penalties, and will pay itself the Settlement Administration Costs.

19 70. Deadline for Cashing Settlement Checks. Participating Class Members shall
20 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
21 checks. If any Participating Class Member's check is not cashed within that period, the check
22 will be void and a stop-payment will be issued, and the Settlement Administrator shall issue the
23 unclaimed funds to the California State Controller's Office in the name of the Class Member.
24 The release will be binding upon all Participating Class Members who do not cash their checks
25 within the 180-day period. In the event that any settlement check is returned to the Settlement
26 Administrator within 180 days of mailing, the Settlement Administrator will, within five (5)
27 business days of receipt of the returned settlement check, perform a skip trace to locate the
28 individual. If a new address is located by these means, the Administrator will have ten (10)

business days to re-issue the check and will notify Defense Counsel and Class Counsel that a re-issued check has been sent. Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Participating Class Member notifies the Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Settlement Administrator will issue a replacement check.

71. No person shall have any claim against Defendant (or its designee), Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on mailings, distributions, payments or reports made in accordance with or pursuant to this Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Agreement.

72. Without prejudice to any other remedies, the Settlement Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

H. Duties of the Parties Prior to the Court's Approval

73. Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order accomplishing the following:

(a) Scheduling the Final Approval Hearing on the issue of whether this Settlement should be finally approved as fair, reasonable and adequate as to the Class Members and a hearing on fees, costs and the Service Payment;

(b) Approving as to form and content the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class for purposes of this Settlement.

I. Duties of the Parties Following Court's Final Approval

74. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representative, and the payment to the Settlement Administrator for costs of administering the settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all Settlement Class Members from prosecuting any Released Claims against any of the Released Parties.

J. Voiding the Agreement

75. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a change of any material terms of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party.

76. If fifteen or more Class Members timely submit a Request for Exclusion, Defendant shall have the option of terminating or modifying this Agreement and Defendant being relieved of any obligation to pay the Settlement Amount or any other obligations from the Settlement by giving notice to Plaintiff's Counsel and the Settlement Administrator within ten (10) days of the Notice Response Deadline. If Defendant exercises its option under this paragraph, Defendant shall be solely responsible for all Settlement Administration Costs incurred.

77. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay

1 the Settlement Amount, or any amounts that otherwise would have been owed under this
2 Settlement.

3 78. If the Settlement is voided, fails or is rescinded for any reason, any costs incurred
4 by the Settlement Administrator shall be borne equally by Defendant and Plaintiff, unless
5 otherwise specified in this Agreement.

6 **K. Other Terms**

7 79. Waiver. The waiver by one Party of any breach of this Agreement by another
8 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

9 80. Confidentiality / No Publicity. The Plaintiff, Class Counsel and all other
10 attorneys acting for Class Members or Plaintiff agree that they will not issue any press releases,
11 initiate any contact with the press, respond to any press inquiry, or have any communication
12 with the press about the fact, amount, or terms of the Settlement prior to or after the Settlement
13 being preliminarily approved by the Court. In addition, the Plaintiff and Class Counsel agree
14 that they will not engage in any advertising or distribute any marketing materials relating to the
15 Settlement of this case prior to the Settlement being preliminarily approved by the Court,
16 including but not limited to any postings on any websites maintained by Class Counsel. Any
17 communication about the Settlement to Class Members prior to the Stipulation of Settlement
18 being preliminarily approved by the Court will be limited to a statement that a settlement has
19 been reached and the details will be communicated in a forthcoming Court-approved notice.
20 Nothing set forth herein, however, shall prohibit the Parties from providing this Agreement to
21 the Court in connection with the Parties' efforts to seek the Court's approval of this Settlement.
22 Neither Plaintiff nor Class Counsel shall hold a press conference or otherwise seek to
23 affirmatively contact the media about the Settlement. If contacted by the media regarding the
24 Settlement, Class Counsel will direct any media inquiries to the public records of the Action on
25 file with the Court. Additionally, neither Plaintiff nor Class Counsel will disparage the
26 Settlement. This Paragraph does not apply to, and shall in no way restrict, Defendant's ability to
27 communicate with its own employees about the Settlement.

1 81. Parties' Authority. The signatories hereto represent that they are fully authorized
2 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
3 hereof.

4 82. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
5 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
6 such documents and to take such other action as may reasonably be necessary to implement the
7 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
8 best efforts, including all efforts contemplated by this Settlement Agreement and any other
9 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
10 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
11 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
12 Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary
13 and final approval of the settlement, and the final entry of judgment.

14 83. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
15 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
16 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
17 cause of action or rights released and discharged by this Settlement Agreement.

18 84. No Admission. Defendant denies any and all liability to Plaintiff and/or any
19 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
20 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
21 compromise the matters at issue in the Complaint to avoid further substantial expense and the
22 inconvenience and distraction of protracted and burdensome litigation. Defendant also has
23 taken into account the uncertainty and risks inherent in litigation, and without conceding any
24 infirmity in the defenses that they have asserted or could assert against Plaintiff, have
25 determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner and
26 upon the terms and conditions set forth in this Agreement.

27 85. Inadmissibility of Agreement. Whether or not the Court issues the Final
28 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,

is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for preliminary and final approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not approved, the stipulation will be of no force or effect.

86. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To Plaintiff and the Settlement Class:

Mehrdad Bokhour
mehrdad@bokhourlaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

Jonathan Melmed
jm@melmedlaw.com
1801 Century Pak East, Suite 850
Los Angeles, California 90067
Tel: (310) 824-3828; Fax: (310) 862-6851

To Defendant:

Ryan E. Abernethy
RAbernethy@weintraub.com
Katie A. Collins
kcollins@weintraub.com
400 Capitol mall, 11th Floor
Sacramento, California 95814

1 Tel: (916) 558-6000; Fax: (916) 446-1611

2 87. Construction. The Parties hereto agree that the terms and conditions of this
3 Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the
4 Parties and that this Settlement Agreement shall not be construed in favor of or against any
5 Party by reason of the extent to which any Party or her or its counsel participated in the drafting
6 of this Settlement Agreement. Plaintiff and Defendant expressly waive the common-law and
7 statutory rule of construction that ambiguities should be construed against the drafter of an
8 agreement and further agree, covenant, and represent that the language in all parts of this
9 Agreement shall be in all cases construed as a whole, according to its fair meaning.

10 88. Captions and Interpretations. Paragraph titles or captions contained herein are
11 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
12 describe the scope of this Settlement Agreement or any provision hereof. Each term of this
13 Settlement Agreement is contractual and not merely a recital.

14 89. Modification. This Settlement Agreement may not be changed, altered, or
15 modified, except in writing and signed by the Parties hereto, and approved by the Court. This
16 Settlement Agreement may not be discharged except by performance in accordance with its
17 terms or by a writing signed by all of the Parties hereto.

18 90. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
19 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
20 provide written notice to the other Party and allow an opportunity to cure the alleged
21 deficiencies, and Plaintiff and Defendant agree to seek the help of the mediator to resolve any
22 dispute they are unable to resolve informally. During this period, the Parties shall bear their own
23 attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding
24 instituted by any person or entity other than Plaintiff or Defendant.

25 91. Choice of Law. This Settlement Agreement shall be governed by and construed,
26 enforced and administered in accordance with the laws of the State of California, without regard
27 to its conflicts-of-law rules.

92. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

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

94. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Class member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the release provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.

95. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

Dated: June 18, 2021

CLASS REPRESENTATIVES:

DocuSigned by:
Jesus M. C. Gonzalez
F46784FAF883445...

Jesus M.C. Gonzalez

Dated: June 22, 2021

DEFENDANT:

FRANK CARSON LANDSCAPE & MAINTENANCE, INC.

By Frank Carson
Title President

1 APPROVED AS TO FORM:

2 Dated: June 18, 2021

CLASS COUNSEL:

MELMED LAW GROUP P.C.

Jonathan Melmed

Jonathan Melmed

Attorneys for Plaintiff and the Putative Class

7
8 Dated: June 18, 2021

BOKHOUR LAW GROUP, P.C.

DocuSigned by:

Mehrdad Bokhour

Mehrdad Bokhour

Attorneys for Plaintiff and the Putative Class

11
12
13 Dated: June 21, 2021

DEFENDANT'S COUNSEL:

WEINTRAUB TOBIN

Ryan E. Abernethy

Ryan E. Abernethy

Katie A. Collins

Attorneys for Defendant Frank Carson Landscape &
Maintenance, Inc.