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 similarly situated employees/settlement class
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 14 RANDY TAYLOR CONSULTING LLC;
 HARVEST DISPENSARIES, CULTIVATIONS
 15 AND PRODUCTION FACILITIES LLC

16 SUPERIOR COURT OF CALIFORNIA

17 COUNTY OF LOS ANGELES
 18

19 MCKENNA ALYSSE JOHNSON,
 20 individually, and on behalf of all others
 similarly situated,
 21

22 Plaintiff,

23 vs.

24 RANDY TAYLOR CONSULTING LLC, an
 Arizona Limited Liability Company;
 25 HARVEST DISPENSARIES,
 CULTIVATIONS AND PRODUCTION
 26 FACILITIES LLC, an Arizona Limited
 Liability Company; and DOES 1 through
 27 100, inclusive,
 28

Case No. 21MCV00156

**ASSIGNED FOR ALL PURPOSES TO HON.
 HELEN ZUKIN, DEPT. 207, Beverly Hills
 Courthouse**

**JOINT STIPULATION OF CLASS
 ACTION/PAGA SETTLEMENT
 AGREEMENT AND RELEASE**

IMAGED FILE

Trial Date: September 22, 2022
 Complaint Filed: January 21, 2021

Defendants.

Subject to the approval of the Court, this Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement”) is made and entered into by and between Plaintiff McKenna Alysse Johnson (“Plaintiff”), individually and as a representative of the Participating Class Members, as defined below, on the one hand, and Defendants Randy Taylor Consulting LLC and Harvest Dispensaries, Cultivations and Production Facilities LLC (“Defendants”), on the other hand. The Class (as defined below) and Defendants are jointly referred to herein as the “Settling Parties” and individually referred to herein as “Settling Party.”

DEFINITIONS

In addition to the other terms defined elsewhere in this Settlement, the terms below have the following meanings in this Settlement:

I. DEFINITIONS

A. “Action” means the civil action entitled *McKenna Alysse Johnson v. Randy Taylor Consulting LLC and Harvest Dispensaries, Cultivations and Production Facilities LLC*, Los Angeles Superior Court Case Number 21MCV00156, which was commenced on January 21, 2021.

B. “Class Counsel” means Taras Kick and Karen Wallace of The Kick Law Firm, APC.

C. “Class Counsel Fees and Expenses” means the total amount of attorneys’ fees, litigation costs, and expenses awarded to Class Counsel by the Court to compensate Class Counsel for their representation of the Class in the Action as well as the PAGA Employees, including pre-filing investigation, filing of the Action, all related litigation activities including discovery, mediation, the motion for class certification, this Settlement, and all post-Settlement compliance procedures.

D. “Class” or “Class Member(s)” means: All current and former non-exempt California employees of Defendants from December 20, 2018 through April 30, 2022.

E. “Class Period” means the period of time from December 20, 2018 through July 2, 2022.

F. “Class Representative Incentive Award” means the amount awarded by the Court to the Class Representative pursuant to Section III (D).

1 **G.** “Class Representative” or “Plaintiff” means McKenna Alysse Johnson.

2 **H.** “Court” means the Superior Court of California for the County of Los Angeles.

3 **I.** “Defendants’ Counsel” means Jody A. Landry and Krystal Weaver of Littler
4 Mendelson, PC.

5 **J.** “Effective Date” means the date by which all of the following have occurred: the
6 Court has finally approved the Settlement and entered Judgment thereon pursuant to California Rules
7 of Court 3.769(h); and the Judgment has become Final, as defined herein below.

8 **K.** “Escalator Clause” means the following: This settlement is based on Defendants’
9 representation that there are 121 alleged aggrieved employees and approximately 2,881 pay periods
10 from November 16, 2019 through March 14, 2022, with an additional 609 pay periods between
11 December 20, 2018 and November 15, 2019. If the number of pay periods during that time period (as
12 of 3/14/22) exceeds 3,490 by more than 5%, then the Net Settlement Amount shall be increased in
13 proportion to the percentage increase in the number of pay periods for each pay period that is more
14 than the 5%. This means that the actual pay periods calculated as of March 14, 2022 must increase by
15 more than 174 in order to trigger the escalator clause. If that occurs, then for the pay periods that
16 exceed 3,664 (3490 + 174) Defendant will pay an additional amount for each of those pay periods.
17 For example, if the Net Settlement Amount is \$150,000, then the additional amount owed for each pay
18 period that exceeds 3,664 is \$40.93 (\$150,000 divided by 3,664).

19 **L.** “Final” means that the Settlement has been finally approved by the Court without
20 material modification and either: (i) if there are no objections on the date the order for final approval
21 is issued; (ii) if an objection(s) is made and overruled, 60 days from the date the order for final approval
22 is issued; or (iii) if objections are made, and an appeal is filed, the day after the Judgment is affirmed
23 or the appeal, review or writ is dismissed or denied, and the Judgment is no longer subject to further
24 judicial review.

25 **M.** “Final Approval Hearing” means the hearing to be conducted by the Court to
26 determine whether to finally approve and implement the terms of this Settlement.

27 **N.** “Judgment” means the judgment entered by the Court after it grants final approval of
28 this Settlement.

1 **O.** “Maximum Settlement Amount” is the total maximum potential monetary value of
2 the settlement payable by Defendants as provided herein, which is Four Hundred and Eighty-Five
3 Thousand Dollars (\$485,000.00) unless the Escalator Clause is triggered. The Maximum Settlement
4 Amount is inclusive of all payments to Participating Class Members under the terms of this Settlement.
5 Class Counsel Fees and Expenses (up to and not to exceed \$161,505 for attorneys’ fees and up to and
6 not exceeding \$15,000 for reimbursement of litigation costs and expenses) awarded by the Court, the
7 Class Representative’s Incentive Award approved by the Court (not to exceed \$10,000), Settlement
8 Administration Costs, the LWDA Payment defined below, and employee-side taxes. Only employer-
9 side payroll taxes are excluded.

10 **P.** “Net Settlement Amount” means the Maximum Settlement Amount less: Class
11 Counsel Fees and Expenses approved by the Court; any Class Representative Incentive Award
12 approved by the Court; Settlement Administration Costs approved by the Court; and the LWDA
13 Payment.

14 **Q.** “Participating Class Member(s)” means Class Members who do not submit a timely
15 and valid request to opt-out of the Settlement.

16 **R.** “PAGA Employees” means all current and former non-exempt employees of
17 Defendants from November 16, 2019 through April 30, 2022.

18 **S.** “PAGA Period” is the time period from November 16, 2019 through July 2, 2022.

19 **T.** “Pay Periods” means for the Class Period, the total number of pay periods worked by
20 a Class Member for Defendants during the Class Period. For the PAGA Period it means the total
21 number of pay periods worked by a PAGA Employee during the PAGA Period .

22 **U.** “Pay Period Value” is established by dividing the Net Settlement Amount by all Pay
23 Periods for the Settlement Class Members and PAGA Employees as explained in Section III(F).

24 **V.** “Preliminary Approval” means the Court’s order granting preliminary approval of the
25 Settlement.

26 **W.** “Released Parties” means Defendants and their parent, affiliates, and each of their
27 company-sponsored employee benefit plans, and their respective successors and predecessors in
28 interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees and

agents, and each of their past, present and future officers, directors shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and attorneys.

X. “Settlement Administrator” means the third-party administrator appointed by the Court to administer the settlement of this Action under the terms of this Settlement. Simpluris shall serve as the Settlement Administrator, subject to the Court’s approval.

Y. “Settlement Administration Costs” means all fees and costs owed to the Settlement Administrator in connection with administering the settlement in this Action under the terms of this Settlement.

Z. “Settlement Share” means each Class Member’s pro rata share of the Net Settlement Amount which is determined by converting the Net Settlement Amount into a bi-weekly/pay period value as described below in Section III(F).

II. RECITALS

A. On January 21, 2021, Plaintiff filed her initial complaint commencing the Action in the Court. Class Counsel sent a letter to the LWDA prior to that time to exhaust her remedies under the Private Attorney General Act, California Labor Code section 2698, et. seq. (“PAGA”). Concurrent with the filing of the Motion for Preliminary Approval, the parties will file a Joint Stipulation and Proposed Order allowing Plaintiff to file a First Amended Complaint (“Operative Complaint”) adding Class Claims. Plaintiff contends, by way of the Action, that Defendants violated California’s wage and hour laws with respect to Plaintiff and Class Members and PAGA Employees by, *inter alia*, failing to properly provide meal periods or pay a premium in lieu thereof, failing to properly authorize and permit rest breaks or pay a premium in lieu thereof, failure to pay wages for all time worked (including overtime and minimum wage), failure to timely pay wages at termination, failing to provide compliant wage statements, failure to reimburse expenses, alleged unlawful deductions from wages, and thereby also violated California Business & Professions Code section 17200, et seq. and seeks penalties under PAGA.

B. On April 5, 2022, the Settling Parties attended mediation with The Hon. Lisa Hart Cole, Ret., an experienced mediator. After lengthy negotiations during which the Settling Parties, through their counsel, recognized the burdens and risk of continuing with the litigation, the Settling Parties

1 reached an agreement to settle and resolve the Action and Released Claims (as defined in Section
2 III(I)).

3 **C.** The Settlement represents a compromise and settlement of highly disputed claims.
4 Nothing in the Settlement is intended, or may be construed, as an admission by Defendants that any
5 of the claims alleged in the Action have merit, or that Defendants bear any liability to the Class
6 Members on those claims, nor as an admission by the Class Members that Defendants' defenses in the
7 Action have merit.

8 Based on these Recitals, the Settling Parties hereby agree as follows.

9 **III. SETTLEMENT TERMS AND CONDITIONS**

10 **A. Maximum Settlement Amount.** In order to settle the Action and Released Claims,
11 Defendants agree to pay the Maximum Settlement Amount of \$485,000.00 unless the Escalator Clause
12 is triggered. This Maximum Settlement Amount is inclusive of all payments described in Section
13 I(O). Under no circumstances shall Defendants be required to pay more than the Maximum Settlement
14 Amount, unless the Escalator Clause is triggered, other than the amount of employer-side payroll taxes
15 owed on the wage portion of the Settlement Shares ("Employer Taxes"). Defendants shall pay the
16 Employer Taxes separately and in addition to the Maximum Settlement Amount.

17 **B. Class Counsel Fees And Expenses.** Defendants and their counsel will not oppose the
18 application to the Court for an award of up to \$161,505 of the Maximum Settlement Amount for
19 attorneys' fees and up to \$15,000 of the Maximum Settlement Amount for reimbursement of Class
20 Counsel's litigation costs and expenses. Class Members and Class Counsel shall not seek payment of
21 attorneys' fees or reimbursement of costs or expenses except as set forth herein. The Settlement
22 Administrator will issue an IRS Form 1099 to Class Counsel with respect to the attorneys' fees and
23 costs awarded to them. Defendants agree not to oppose a motion for attorneys' fees or a bill of costs
24 for the aforementioned amounts, provided that this should not be construed as approval or endorsement
25 by Defendants of the amount sought. Whatever amount of Class Counsel Fees and Expenses that the
26 Court approves shall be paid from the Maximum Settlement Amount. Should the Court approve and
27 award less than the amount provided for herein, the difference shall be included in the Net Settlement
28 Amount.

1 **C. LWDA Payment.** Settling Parties agree that the amount of \$40,000 of the Maximum
2 Settlement Amount is deemed payment for penalties under PAGA (“PAGA Penalties”), of which 75%
3 will be paid to the Labor and Workforce Development Agency (“LWDA Payment”) and the remaining
4 25% will be distributed to the PAGA Employees pursuant to the formula in Section III(F)(3).

5 **D. Class Representative Incentive Award.**

6 1. Plaintiff will request, and Defendants will not oppose, an incentive payment not
7 to exceed \$10,000 to Plaintiff as the Class Representative. The Class Representative’s Incentive
8 Award is intended as reasonable compensation for the time and effort expended by Plaintiff as Class
9 Representative and in connection with the initiation and maintenance of this Action. The Class
10 Representative’s Incentive Award will be paid from the Maximum Settlement Amount, and will be
11 paid in addition to whatever payment Plaintiff is otherwise entitled to as a Participating Class Member.
12 The Class Representative’s Incentive Award will be reported to the taxing authorities by means of an
13 IRS Form 1099. The amount of the Class Representative’s Incentive Award is left to and within the
14 Court’s sole discretion. Whatever Class Representative’s Incentive Award the Court orders shall be
15 paid from the Maximum Settlement Amount. Should the Court approve an award less than the amount
16 provided for herein, or not at all, the difference shall be included in the Net Settlement Amount. The
17 Settling Parties agree that the approval, and amount, of any incentive award in this Action shall be in
18 the Court’s sole discretion and not subject to any appeal by Plaintiff who is the sole recipient of any
19 approved Class Representative’s Incentive Award. This Settlement is not contingent on Plaintiff’s
20 receipt of any incentive award out of the Maximum Settlement Amount.

21 2. Plaintiff acknowledges and agrees that Defendants and their attorneys have
22 made no representations or warranties regarding the tax consequences of payment of the Class
23 Representative’s Incentive Award, and Plaintiff has not relied on any such representations or
24 warranties. Plaintiff further agrees to pay and bear sole responsibility for all taxes, liens, levies,
25 encumbrances, interest, and penalties that may be due or payable to any taxing authority as a result of
26 payment of any Class Representative’s Incentive Award. Furthermore, Plaintiff agrees to defend and
27 indemnify Defendants and Released Parties in connection with any taxes, fines, interest or penalties
28 incurred as a result of any failure by Plaintiff to pay taxes due, if any, on the Class Representative’s

1 Incentive Award paid pursuant to this Agreement.

2 **E. Settlement Administration Costs.** Settling Parties selected Simpluris to act as the
3 Settlement Administrator and it will estimate the fees, expenses, and costs for administration of the
4 terms of this Settlement ("Settlement Administration Costs"). All of the Settlement Administration
5 Costs shall be paid from the Maximum Settlement Amount upon completion of all duties required to
6 be performed by the Claims Administrator under the terms of this Settlement, or as otherwise required
7 by the Court, subject to the "not to exceed" quote from the agreed upon Settlement Administrator.
8 Should the Court approve an award less than the amount provided for herein, or not at all, the
9 difference shall be included in the Net Settlement Amount.

10 **F. Settlement Shares to Class Members.**

11 1. Under the Settlement, each Participating Class Member will be entitled to
12 payment of a pro rata portion of the Net Settlement Amount (i.e., his or her Settlement Share). The
13 amount that each Class Member will be eligible to receive under the Settlement will be determined by
14 converting the Net Settlement Amount into a Pay Period Value. Class Member's estimated Settlement
15 Share will be calculated by multiplying his or her individual Pay Periods by the Pay Period Value.
16 The pay periods worked by Class Members during the Class Period will be derived by calculating the
17 number of days during the Class Period worked by each Class Member by using the hire and
18 termination dates and payroll data in Defendants' records, dividing by 14 to yield pay periods.

19 2. Each Settlement Share of the Net Settlement Amount will be apportioned as
20 follows: 20% as wages (the "Wage Component") and 80% for interest, penalties, and other non-wage
21 damages (the "Non-Wage Component"). Each Settlement Share will be subject to reduction for all
22 employee's share of taxes and withholdings on the Wage Component and shall be reported by IRS W-
23 2 forms, and the net payment will be referred to as "Individual Settlement Payment(s)." No reductions
24 will be made to Settlement Shares for any taxes or withholding in connection with the Non-Wage
25 Component, and the Non-Wage Component shall be reported by IRS 1099 forms. All Class Members
26 covered by this Settlement agree that they are not relying on any representations regarding the tax
27 allocation or treatment of any amounts paid to them under the terms of this Settlement and agree to
28

1 hold Defendants and the Released Parties harmless for any and all tax consequences relating to the
2 allocation of the payments made under this Settlement.

3 3. Each PAGA Employees' pro rata share of the PAGA Employee Fund
4 ("Individual PAGA Settlement Share") will be determined by converting the portion of the PAGA
5 Employee Fund payable to the PAGA Employees into a Pay Period Value. The pay periods worked
6 by the PAGA Employees during the PAGA Period will be derived by calculating the number of days
7 during the PAGA Period worked by each PAGA Employees by using the hire and termination dates
8 and payroll data in Defendants' records, dividing by 14 to yield pay periods. The Individual PAGA
9 Settlement Share for each PAGA Employee will be determined by multiplying the pay period value
10 by each PAGA Employee's individual pay periods. All payments are for penalties and will be reported
11 to the PAGA Employees on IRS Form 1099.

12 **G. Distributions.**

13 1. Within five (5) business days of the Effective Date, the Settlement
14 Administrator will provide Class Counsel and Defendants' Counsel with the account information so
15 that Defendants can wire the Maximum Settlement Amount and the Employer Taxes, and Defendants
16 shall wire said amounts within thirty (30) business days of the Effective Date.

17 2. The Settlement Administrator will distribute Individual Settlement Payments to
18 Participating Class Members, the payment to the Labor and Workforce Development Agency, the
19 Court-approved Class Representative's Incentive Awards to Plaintiff, and Court-approved Class
20 Counsel Fees and Expenses to Class Counsel, within ten (10) business days of receipt of payment from
21 Defendants pursuant to this Paragraph.

22 3. Individual Settlement Payment checks issued to Participating Class Members
23 will remain valid for a period of 180 calendar days after they issue, and shall be cancelled thereafter.
24 Uncashed checks will go to Public Citizen Foundation, a 501(c)(3) organization, subject to the Court's
25 approval.

26 **H. Payments To Class Do Not Trigger Additional or Derivative Payments.** It is
27 expressly understood and agreed that the receipt of payments under the Settlement will not entitle
28 Plaintiff or any Participating Class Member to additional or derivative compensation or benefits under

any of Defendants' compensation or benefit plans or agreement in place during the period covered by the Settlement, nor will it entitle Plaintiff or any Class Member to any increased retirement, 401k benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that the payments provided for in this Agreement are the sole payments to be made by Defendants to Plaintiff and Participating Class Members, and that Plaintiff and Participating Class Members are not entitled to any additional or derivative compensation or benefits as a result of having received said payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

I. Release of Claims.

1. Release of Claims By Participating Class Members. "Released Claims" means all claims for violations of the following Labor Code sections, as well as civil penalties under PAGA, that were actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of the Class Employees and the State of California, herself and the PAGA Employees for the entire Class Period and entire PAGA Period, based on the facts alleged in the First Amended Complaint for the Class Period and PAGA Period, including but not limited to: (a) failure to provide meal periods; (b) failure to provide rest breaks; (c) failure to pay wages, including minimum wage and overtime; (d) failure to provide accurate wage statements; (e) failure to reimburse expenses; (f) alleged unlawful deductions; (g) alleged violation of California's tip law; (h) waiting time penalties; (i) penalties under PAGA for alleged violations of Labor Code sections 201-203, 204, 210, 221, 223, 226, 226.3, 226.7, 351, 400-410, 510, 512, 558, 558.1, 1174-1174.5, 1182.12, 1193.6, 1194, 1194.2, 1197, 1197.1, 1198, 2699 et. seq., and 2802, claims for violation of the provision of the applicable Wage Order regarding meal periods, rest periods, minimum wage, as well as allegations regarding the late payment of final wages, failure to pay minimum wage or overtime, failure to provide meal periods, failure to authorize and permit rest breaks, failure to reimburse expenses, unlawful deductions, improper tip rules, inaccurate wage statements and inaccurate/incomplete recordkeeping; (j) claims for the attorney's fees and costs incurred in the prosecution of this Action on behalf of the PAGA Employees; (k) any other remedies, penalties, or interest based on the facts alleged in the Complaint; and (l) all claims that Plaintiff and/or the PAGA Employees may have against the Released Parties relating to: (i) the

1 payment, taxation, and allocation of attorney's fees and costs to Plaintiff's Counsel pursuant to this
2 Settlement Agreement; and (ii) the payment, taxation, and allocation of PAGA Representative
3 Payment pursuant to this Settlement Agreement. The release of the Released Claims shall be effective
4 as to the entire PAGA Period and entire Class Period, both defined above.

5 2. Complete And General Release By Class Representative. Plaintiff understands
6 and agrees that she may hereafter discover facts in addition to or different from those Plaintiff now
7 knows or believes to be true with respect to the subject matter of the Released Claims, but upon the
8 Effective Date, shall be deemed to have, and by operation of the contemplated final judgment shall
9 have, fully, finally, and forever settled and released any and all of the Released Claims, whether known
10 or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore
11 have existed, upon any theory of law or equity now existing, including, but not limited to, alleged
12 retaliation, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law
13 or rule, without regard to the subsequent discovery or existence of such different or additional facts.
14 In exchange for the consideration provided to Plaintiff as the Class Representative under the
15 Settlement, Plaintiff shall, waive any and all rights Plaintiff may have under Civil Code section 1542.
16 Section 1542 reads as follows: "A general release does not extend to claims that the creditor or
17 releasing party does not know or suspect to exist in his or her favor at the time of executing the release
18 and that, if known by him or her, would have materially affected his or her settlement with the debtor
19 or released party." Plaintiff understands that she is providing a general release of known and unknown
20 claims to Defendants that is effective on the Court grants final approval of the Settlement and
21 Defendants fund the Settlement.

22 3. Upon the date Defendants fully fund the Maximum Settlement Amount,
23 Plaintiff, on behalf of herself, the State of California, all PAGA Employees and all Class Members,
24 release the Released Parties from the Released Claims. Both PAGA Employees and/or Class Members
25 may discover facts in addition to those they now know or believe to be true with respect to the subject
26 matter of the Released Claims, but upon the date Defendants fully fund the Maximum Settlement
27 Amount, PAGA Employees and Class Members shall be deemed to have, and by operation of the
28 Settlement Approval order shall have, fully, finally, and forever settled and released any and all of the

Released Claims, without regard to the subsequent discovery or existence of such different or additional facts. PAGA Employees and Class Members shall not sue or otherwise make a claim against any of the Released Parties that seeks recovery for any of the Released Claims. It is the intent of the Parties that the Settlement Approval order entered by the Court shall have full *res judicata* effect and be final and binding upon the PAGA Employees and Class Members regarding the Released Claims

J. Motion For Preliminary Approval.

1. Class Counsel will file an unopposed motion with the Court (the "Preliminary Approval Motion") seeking an order approving the Settlement; setting a date for the Final Approval Hearing; approving the distribution of the Notice of Class Action Settlement (the "Class Notice") in substantively the form attached hereto as "Exhibit A"; and approving the procedures and deadlines for disputing Pay Periods, opting-out of the Settlement, and objecting to the Settlement. Defendants' counsel will either not respond or will file a notice of non-opposition to the motion. Defendants will reasonably cooperate to satisfy the requirements of *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116 for preliminary and final approval.

2. At the hearing on the Preliminary Approval Motion, the Settling Parties will jointly appear, and support the granting of the motion, and submit a proposed order granting preliminary approval of the Settlement, approving the Class Notice, and setting a Final Approval Hearing (the "Proposed Order"). The Proposed Order to be submitted to the Court in substantially the form that is attached hereto as "Exhibit B."

3. Should the Court, after a reasonable opportunity to cure and remedy any stated deficiencies, ultimately decline to grant preliminary approval of the Settlement as proposed by the Settling Parties, then the Settlement is void for lack of a condition precedent of the Settlement and the Settling Parties will revert to their respective positions.

K. Mailing Of Class Notice To Class Members.

After the Court enters its order granting preliminary approval of the Settlement, all Class Members will be provided with the Class Notice by the Settlement Administrator as follows:

1. Within ten (10) business days after the Court grants preliminary approval of the

1 Settlement, Defendants will provide to the Settlement Administrator the last-known contact
2 information that Defendants have for the Class Members, including their full name, mailing addresses,
3 telephone numbers, Social Security numbers, start and end dates of employment as a non-exempt
4 employee of Defendants in California during the Class Period, and such other information that may
5 be necessary to calculate Pay Periods and/or process disputes of Pay Periods ("Class Data List"). A
6 redacted version of the Class Data List, without any personal contact information or Social Security
7 numbers, will be provided to Class Counsel, and this list will be used for no purpose other than to
8 monitor the administration of the Settlement. All data and information provided to the Settlement
9 Administrator and Class Counsel by way of the Class Data List will be treated as confidential and will
10 not be disclosed to anyone, except as may be required to applicable tax authorities, pursuant to
11 Defendants' express written consent, by order of the Court, or to carry out the reasonable steps
12 described in this Settlement to locate missing Class Members.

13 2. Within ten (10) calendar days after receiving the Class Data List from
14 Defendants, the Settlement Administrator will mail the Class Notice to all identified Class Members
15 via first-class U.S. Mail, using the last known address information provided by Defendants, unless
16 such address is modified by any updated address information that the Settlement Administrator obtains
17 in the course of administration of the Settlement. Prior to completing this mailing, the Settlement
18 Administrator will perform a National Change of Address ("NCOA") search to confirm the validity
19 of and update Class Members' mailing addresses.

20 3. If any Class Notice is returned as undeliverable with a forwarding address
21 within thirty (30) calendar days of the mailing of the Class Notice, the Settlement Administrator shall
22 have five (5) calendar days to re-mail the Class Notice to the forwarding address. If any Class Notice
23 is returned as undeliverable without a forwarding address within thirty (30) calendar days of the
24 mailing of the Class Notice, the Settlement Administrator will have five (5) calendar days from receipt
25 of the returned Class Notice to search for a more current address for the Class Member and to re-mail
26 the Class Notice to the Class Member. This inquiry shall include a skip-trace search. The Settlement
27 Administrator will be responsible for taking all reasonable steps, consistent with its agreed upon job
28 parameters, Court orders and fee, according to the deadlines set forth in this Settlement, to administer

1 the Settlement, including, *inter alia*, to tracking all undelivered mail, performing an address search for
2 all mail returned without a forwarding address, and promptly re-mailing the Class Notice to Class
3 Members as set forth herein. If the Class Notice is re-mailed, the Claims Administrator will note for
4 its own records the date and address of each such re-mailing and so notify Class Counsel and
5 Defendants' counsel. The obligation to trace and resend returned Class Notices shall cease after two
6 mailings or thirty (30) calendar days after the initial mailing, whichever occurs first. The Response
7 Deadline will be either the original Response Deadline or fifteen (15) calendar days after the remailing
8 of a Class Notice in accordance with the Agreement, whichever is later.

9 4. The Settlement Administrator shall provide weekly status reports to counsel for
10 the Settling Parties, including: (a) the number of Class Notices that it has mailed; (b) the number of
11 objections, if any are received; (c) the number of disputes of pay periods, if any are received; and (c)
12 the number of request to opt-out of the Settlement, if any are received.

13 5. No later than ten (10) business days after the Response Deadline, the Settlement
14 Administrator will provide Class Counsel and Defendants' counsel, a declaration for filing with the
15 Court in support of Plaintiff's motion for final approval of the Settlement, setting forth its due diligence
16 and compliance with its obligations under this Settlement.

17 **L. Opt-Outs and Objections To Settlement.**

18 Class Members are not required to sign a claim form to participate in the Settlement. Class
19 Members may opt out of the Settlement or submit objections to the Settlement pursuant to the
20 following procedures:

21 1. The Class Notice will provide that Class Members who do not want to
22 participate in the Settlement may exclude themselves by submitting a written request seeking to opt-
23 out of the Settlement ("Opt-Out Notice") to the Settlement Administrator not later than thirty (30)
24 calendar days after the date that the Settlement Administrator first mails the Class Notice ("Opt-Out
25 Response Deadline"). An Opt-Out Notice must: (a) contain the full name, address, and last four digits
26 of the Social Security number of the person requesting to opt-out; (b) be signed by the person
27 requesting to opt-out; (c) reference the Action by its name; and (d) contain a statement clearly
28 indicating that the person submitting the request seeks to be excluded from the Settlement. If the Opt-

1 Out Notice does not contain the information listed in (a)-(d) or is not returned to the Settlement
2 Administrator postmarked by the Opt-Out Response Deadline, it will not be deemed timely and valid.
3 The date of the postmark on the return mailing envelope shall be the exclusive means used to determine
4 whether the Opt-Out Notice has been timely submitted. Any Class Member who submits a timely and
5 valid Opt-Out Notice will not be entitled to any recovery under the Settlement and will not be bound
6 by the terms of the Settlement, excluding the PAGA component of the Settlement, and will not have
7 any right to object, appeal, or comment thereon. Class Members who fail to submit a timely and valid
8 Opt-Out Notice shall be Class Members bound by all terms of the Settlement and the contemplated
9 Judgment if the Settlement is granted final approval by the Court. No later than five (5) business days
10 after the Opt-Out Response Deadline, the Settlement Administrator shall provide Counsel with a
11 complete list of all Class Members who have submitted timely and valid Opt-Out Notices, including
12 their full name.

13 2. The Class Notice will provide that Participating Class Members (i.e., Class
14 Members who are not seeking to opt out of the Settlement) who wish to object to the Settlement must
15 file with the Court and submit to the Settlement Administrator not later than forty-five (45) calendar
16 days after the date that the Settlement Administrator first mails the Class Notice (“Objection Response
17 Deadline”) a written statement explaining their objection to the Settlement no later than the Objection
18 Response Deadline. If a Class Member opts out of the Settlement that class member cannot object to
19 the Settlement.

20 3. A Class Member who does not file and submit an objection in the manner and
21 by the Objection Response Deadline specified above can be deemed by the Court to have waived all
22 objections and be foreclosed from making any objections to the Settlement, whether by appeal or
23 otherwise.

24 4. If a Class Member who has timely filed an objection to the Settlement files a
25 Notice of Appeal of the contemplated Judgment within the time period prescribed by law, Defendants
26 shall not be required to fund any portion of the Maximum Settlement Amount, and the Settlement
27 Administrator shall not distribute or pay any monies until the appeal(s) are finally resolved in favor of
28 the Settlement or dismissed with prejudice.

1 5. There is no statutory right for any Class Member who is covered by the PAGA
2 portion of the settlement to object, opt out or otherwise exclude himself or herself from the PAGA
3 part of the Settlement. Further, there is no right or opportunity for any PAGA Employee to appeal the
4 approval of the Settlement by the Court. The Parties will jointly defend against any appeal filed with
5 respect to the Final Order as it pertains to the PAGA part of the Settlement.

6 **M. Resolution of Class Member Disputes Over Pay Periods.**

7 1. If a Class Member disputes the number of Pay Periods credited to him or her,
8 which will be stated in the Class Notice, the Class Member must submit a written dispute to the
9 Settlement Administrator, postmarked no later than the Objection Response Deadline. The dispute
10 must: (a) contain the full name, address, and last four digits of the Social Security number of the Class
11 Member; (b) be signed by the Class Member; (c) reference the Action by its name and case number;
12 (d) contain a statement clearly indicating that the Class Member disputes the number of Pay Periods
13 that are credited to him or her and the number of Pay Periods that the Class Member claims should be
14 credited to him or her; and (e) attach supporting documentation, if any, that they may have. If such a
15 dispute arises with respect to a Class Member, the Settlement Administrator will inform Class Counsel
16 and Defendants' Counsel. Defendants will manually review their payroll and personnel records to
17 verify the correct number of pay Periods for the disputing Class Member. Defendants' records shall
18 have a rebuttable presumption of correctness, and Defendants' Counsel and Class Counsel shall jointly
19 determine how the dispute should be resolved. If they are unable to jointly resolve the dispute, the
20 Settlement Administrator shall present the dispute for resolution by the Court, by way of declaration
21 to be filed in advance of the Final Approval Hearing. The decision on the dispute will be non-
22 appealable.

23 **N. No Solicitation of Objections or Opt-Outs.** Neither the Settling Parties nor their
24 respective counsel or management will solicit or otherwise encourage any Class Member, directly or
25 indirectly, to seek to opt-out from the Settlement, object to the Settlement, and/or appeal from the
26 Judgment.

O. Additional Briefing and Final Approval.

1. As soon as practicable following the Opt-Out Response Deadline, Plaintiff will move the Court for final approval of the Settlement. Class Counsel shall submit their application for an award of attorney's fees and costs and approval of the Class Representative's Incentive Award to the Court at least one week prior to the Participating Class Members deadline to object to the Settlement pursuant to and in accordance with the terms of this Settlement, with a memorandum in support of the motion(s), which Defendants agree they will not oppose so long as the motion(s) are in all respects consistent with the terms of this Settlement. Not later than five (5) court days before the Final Approval Hearing, the Settling Parties may file, jointly or separately, a reply in support of the motion(s) or such other papers as may be necessary or helpful to the Court regarding the subject matter of the motion(s).

2. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Settling Parties will present a Judgment for the Court's approval and entry, which will provide that the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of: (i) enforcing this Settlement, (ii) addressing any claims administration matters that may arise; and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

P. Options to Terminate Settlement.

1. Any reduction in the Class Counsel Fees and Expenses, and/or any reduction to the requested Class Representative's Incentive Award, does not constitute grounds to terminate or void the Settlement.

2. Defendants have the right to cancel the Settlement if more than ten percent (10%) of the Class Members submit timely and valid requests Opt-Out Notices from the Settlement. This option to cancel the Settlement must be exercised by Defendants by providing written notice to Class Counsel within ten (10) business days of counsel for Defendants receiving notification from the Settlement Administrator that more than ten percent of the Class Members have submitted timely and valid Opt-Out Notices from the Settlement. If Defendants exercise the option to terminate the Settlement, then, Defendants shall be responsible for paying all settlement administration costs.

1 3. Either Settling Party may terminate this Settlement by giving written notice to
2 the other Settling Party (through its counsel) no later than twenty (20) calendar days after receiving
3 notice that one of the following has occurred: (i) the Court declines to enter the Preliminary Approval
4 Order or the Final Approval Order in substantially the form submitted by the Parties after reasonable
5 cooperative efforts by the Parties to obtain approval; (ii) the Settlement does not become final because
6 of any appellate court action; or (iii) the Court's final approval of the Settlement is reversed or
7 materially modified on appellate review.

8 4. In the event of termination of this Settlement as provided above, this Settlement
9 will become and shall be considered null and void, and it will have the following effects: (i) the Settling
10 Parties will have no further obligations under the Settlement; (ii) Defendants shall have no obligation
11 to make any payments to any person, party, Class Member or attorney that otherwise would have been
12 owed under this Settlement, except that in case of termination under Section III (P)(2), Defendants
13 will pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that the
14 Settlement is terminated; (iii) in case of termination under Section III (P)(3), whichever party
15 terminates the Settlement shall pay will pay the Settlement Administrator's reasonable fees and
16 expenses incurred as of the date that the Settlement is terminated; (iv) the Settlement and all
17 negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of
18 any of the Settling Parties, all of whom shall be restored to their respective positions in the Action
19 prior to the Settlement; and (v) neither this Settlement nor any ancillary documents, actions, statements
20 or filings in furtherance of settlement (including all matters associated with the mediation) shall be
21 admissible or offered into evidence in the Action or any other case or proceeding for any purpose
22 whatsoever.

23 5. Notice of the termination of the Settlement by a Settling Parties must be
24 provided to counsel for the other Settling Party in writing.

25 **Q. Dispute Resolution.** Any disputes not resolved by the Settlement Administrator or the
26 Settling Parties will be resolved by the Court. Before any such resort to the Court, counsel for the
27 Settling Parties will confer in good faith in an attempt to resolve the dispute.
28

1 **R. Waiver of Right To Appeal.** Plaintiff and Class Counsel agree to waive all appeals
2 from the Court's Final Approval of this Settlement.

3 **S. Publicity.** Plaintiff and Class Counsel agree not to issue a press release or otherwise notify
4 the media about the terms of the Settlement or advertise or market any of the terms of the Settlement
5 through written, recorded, or electronic communications. In addition, Class Counsel will not put details
6 about the settlement on their website. However, this will not prevent Class Counsel from undertaking
7 required submissions and disclosures that are required to obtain approval of the Settlement, including and
8 not limited to, submission of the Settlement to the LWDA in conformity with the PAGA statute.

9 **T. Representation As To No Other Known Claims:** Class Counsel represent that as of
10 this time they do not represent any current or former employee of Defendants, and have no current
11 plans to file any new litigation against Defendants.

12 **U. Fair, Adequate, And Reasonable Settlement.** This Settlement was reached after
13 extensive arm's length adverse negotiations. The Settling Parties believe and agree that this Settlement
14 is a fair, adequate, and reasonable resolution of the Action and have arrived at this Settlement in arm's-
15 length negotiations, considering all relevant factors, present and potential, and will so represent it to
16 the Court.

17 **V. No Admission Of Liability.** Defendants and the Released Parties deny any and all
18 alleged wrongdoing or the violation of any rights of the Plaintiff and/or Class Members or PAGA
19 Employees. By entering into this Settlement, Defendants do not admit, and in fact specifically
20 disclaim, the violation of any law or regulation. This Settlement is entered into solely for the purpose
21 of compromising highly disputed claims. Nothing in this Settlement is intended or will be construed
22 as an admission of any liability or wrongdoing by Defendants, or as an admission by the Class
23 Members that any of their claims were non-meritorious or that any defense asserted by Defendants
24 was meritorious. This Settlement and the fact that the Settling Parties were willing to settle the Action
25 and have entered into this Settlement will have no bearing on, and will not be admissible in connection
26 with, any litigation, other than as is necessary to enforce the terms of this Settlement.

1 **W. Miscellaneous Terms.**

2 1. Integrated Agreement. After it is signed and delivered by all Settling Parties
3 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
4 Settling Parties relating to the terms of Settlement, and will supersede any prior or contemporaneous
5 oral representations, warranties, covenants, or inducements made to any Settling Party concerning this
6 Settlement or its exhibits, including the Settlement Terms.

7 2. Execution in Counterparts. This Settlement may be executed in one or more
8 counterparts and by facsimile or PDF version. All executed counterparts, and each of them, will be
9 deemed to be one and the same instrument, provided that counsel for the Settling Parties will exchange
10 between themselves original signed counterparts. Any executed counterpart will be admissible in
11 evidence to prove the existence and contents of this Settlement.

12 3. Modification of Settlement. This Settlement, and any and all parts of it, may
13 be amended, modified, changed, or waived only by an express written instrument signed by all Settling
14 Parties or their successors-in-interest, subject to approval by the Court.

15 4. Settlement Binding on Successors. This Settlement will be binding upon, and
16 inure to the benefit of, the successors of each of the Settling Parties and Participating Class Members.

17 5. Applicable Law. All terms and conditions of this Settlement and its exhibits
18 will be governed by and interpreted according to the laws of the State of California, without giving
19 effect to any conflict of law or choice of law principles.

20 6. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
21 Action, subject to necessary compliance with the Court's orders, except such proceedings necessary
22 to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by
23 the Court.

24 7. Authorization to Enter Into Settlement Agreement. Counsel for all Settling
25 Parties warrant and represent they are expressly authorized by the Settling Parties whom they represent
26 to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
27 such Settling Parties pursuant to this Agreement to effectuate its terms, and to execute any other
28 documents required to effectuate the terms of this Agreement. The Settling Parties and their counsel

1 will cooperate with each other and use their best effort to effectuate the implementation of the
2 Settlement. In the event the Settling Parties are unable to reach agreement on the form or content of
3 any document needed to implement the Settlement, or on any supplemental provisions that may
4 become necessary to effectuate the terms of this Settlement, the Settling Parties may seek the
5 assistance of the Court to resolve such disagreement. The person signing this Agreement on behalf of
6 Defendants represent and warrants that he is authorized to sign this Agreement on behalf of
7 Defendants. The Class Representative represents and warrant that she is authorized to sign this
8 Agreement and that she has not assigned any claim, or part of a claim, covered by this Settlement to a
9 third-party.

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

14 To Class Counsel:

15 Taras Kick
16 (Taras@kicklawfirm.com)
17 Karen L. Wallace
18 **THE KICK LAW FIRM, APC**
815 Moraga Drive
Los Angeles, California 90049

19 To Defendants:

20 Jody A. Landry, Esq.
21 jlandry@littler.com
22 Krystal Weaver, Esq.
23 kweaver@littler.com
24 LITTLER MENDELSON, P.C.
501 West Broadway, Suite 900
San Diego, California 92101

9. Cooperation in Drafting. The Settling Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Settling Party on the basis that the Settling Party was the drafter or participated in the drafting.

IT IS SO AGREED.

Dated: 6/8/2022 _____

DocuSigned by:
McKenna Johnson
McKenna Alyse Johnson
Plaintiff

For Defendants Randy Taylor Consulting LLC and Harvest Dispensaries, Cultivations and Production Facilities LLC:

Dated: _____
Eric Powers, Chief Legal Officer

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