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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MADERA

RUBEN CORTEZ, individually and on behalf
of others similarly situated, and as an
aggrieved employee and Private Attorney
General,

Plaintiff,

vs.

PERFECT PAC, L.P., a Delaware limited
partnership; PERFECT PAC, INC., a
Delaware corporation; PANOCHE CREEK
PACKING, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: MCV084722

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

Complaint Filed: February 18, 2021
Trial Date: Not Set

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff Ruben Cortez, individually and on behalf of the Settlement Class, and Defendants Perfect Pac, L.P., Perfect Pac, Inc., and Panoche Creek Packing, Inc.

DEFINITIONS

1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class Action and PAGA Settlement.

2. “Action” means the court action, entitled “*Cortez v. Perfect Pac, L.P., et al.*”, Case No. MCV084722, pending before the Madera County Superior Court.

3. “Class Counsel” means Heather Davis, Amir Nayebdadash, and Priscilla Gamino of Protection Law Group, LLP.

4. “Class Counsel’s Fees and Costs” means attorneys’ fees for Class Counsel’s litigation and resolution of this Action and their expenses and costs incurred in connection with the Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request attorneys’ fees not to exceed Thirty-Five Percent (35%) of the Gross Settlement Amount, *i.e.*, One Million Fifty Thousand Dollars (\$1,050,000.00), and the reimbursement costs and expenses associated with the litigation and settlement of the Action, not to exceed Twenty-Five Thousand Dollars (\$25,000.00), subject to the Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for fees and reimbursement of costs and expenses in the amount set forth above.

5. “Class List” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class Member’s: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendants in the State of California; (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other information required

by the Settlement Administrator in order to effectuate the terms of the Settlement.

6. “Class” or “Class Members” means all current and former hourly-paid, non-exempt employees of Defendants who were employed by Defendants in the State of California at any time during the Class Period.

7. “Class Period” means the period from February 18, 2017, until the date of preliminary approval of the settlement by the Court, or, November 5, 2022, whichever date occurs earlier.

8. “Class Representative” means Plaintiff Ruben Cortez in his capacity as representative of the Participating Class Members.

9. “Class Representative Incentive Payment” means the amount that the Court authorizes to be paid to Plaintiff Cortez in addition to his Individual Settlement Payment, in recognition of the efforts and risks he has taken in assisting with the prosecution of the Action and in exchange for the General Release of his claims as provided herein.

10. “Court” means the Superior Court of the State of California for the County of Madera.

11. “Defendants” means Perfect Pac, L.P., Perfect Pac, Inc., and Panoche Creek Packing, Inc.

12. “Effective Date” means: the later of: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement.

13. “Final Approval” means the Court entering an order granting final approval of the Settlement Agreement.

14. “Gross Settlement Amount” means the sum of Three Million Dollars (\$3,000,000.00). The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will return to Defendants.

15. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Participating Class Member and any payment a PAGA Member is eligible to receive from the employee portion of the PAGA Payment. Individual Settlement Payments shall be paid by a Settlement Check made payable to Participating Class Members and/or PAGA Members.

16. "Net Settlement Amount" means the funds available for payments to the Class, which shall be the amount remaining after the following amounts are deducted from the Gross Settlement Amount: (1) Class Counsel's fees; (2) Class Counsel's costs; (3) Settlement Administration Costs; (4) Class Representative Incentive Payment to Plaintiff Cortez; and (5) the PAGA Payment to the California Labor and Workforce Development Agency ("LWDA") and PAGA Members.

17. "Notice" means the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A, that will be mailed to Class Members' last known address and which will provide Class Members with information regarding the Action and information regarding the settlement of the Action.

18. "PAGA" means the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA").

19. "PAGA Payment" means the amount that the Parties have agreed to allocate in order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) ("PAGA"). The Parties have agreed that One Hundred Thousand Dollars (\$100,000.00) of the Gross Settlement Amount will be allocated to the resolution of Plaintiff's PAGA Claims. Seventy Five Percent (75%) of this amount (\$75,000.00) will be paid to the LWDA in accordance with Labor Code §§ 2698 *et seq.* Twenty Five Percent (25%) of this amount (\$25,000.00), will be distributed to PAGA Members. PAGA Members will receive payment from the employee portion of the PAGA Payment regardless of their decision to participate in the class action if the PAGA Payment is approved by the Court.

20. "PAGA Period" means the period from February 9, 2020, until the date of

preliminary approval of the settlement by the Court, or, November 5, 2022, whichever date occurs earlier.

21. “PAGA Members” means all current and former non-exempt employees of Defendants who were employed by Defendants in the state of California at any time during the PAGA Period.

22. “Parties” means Plaintiff and Defendants, collectively, and “Party” shall mean either Plaintiff or Defendants, individually.

23. “Participating Class Members” means all Class Members who do not submit valid and timely Requests for Exclusion.

24. “Plaintiff” means Ruben Cortez.

25. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

26. “Objection” means a Class Member’s valid and timely written objection to the Settlement Agreement. For an Objection to be valid, it must include: (a) the objector’s full name, address, telephone number, last four digits of the employees’ social security number or employee ID number; (b) the name of the case and case number; and (c) a written statement of all grounds for the objection accompanied by legal support, if any, for such objection.

27. “Released Class Claims” means any and all claims, actions, or causes of action alleged in the operative Complaint, or that could have been alleged or raised in the operative Complaint based upon or arising out of the facts alleged therein, during the Class Period including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to provide complete, accurate wage statements; (v) failure to pay wages timely at time of termination or resignation; and (vi) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative Complaint.

28. “Released PAGA Claims” means all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the facts alleged both in the PAGA Notice provided to the LWDA and in the operative Complaint for the PAGA Period.

29. “Released Parties” means Defendants Perfect Pac, L.P., Perfect Pac, Inc., and Panoche Creek Packing, Inc., and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

30. “Request for Exclusion” means a valid and timely written statement submitted by a Class Member requesting to be excluded from the class settlement. To be effective, the Request for Exclusion must contain (a) the Class Member’s name, address, telephone number, and the last four digits of the Class Member’s Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims similar to the following: “I wish to exclude myself from the class settlement reached in the matter of *Cortez v. Perfect Pac, L.P.* I understand that by excluding myself, I will not receive money from the settlement of my individual claims.” To be effective, the Request for Exclusion must be post-marked by the Response Deadline and received by the Settlement Administrator. The Request for Exclusion shall not be effective as to the release of claims arising under the Private Attorneys General Act.

31. “Response Deadline” means the date sixty (60) calendar days after the Settlement Administrator mails the Notice to Class Members and the last date on which Class Members may submit Requests for Exclusion, written objections to the Settlement, or Workweek Disputes. In the event the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline for Requests for Exclusion or objections will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice by the Settlement Administrator,

1 unless the 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline
2 will be extended to the next day on which the U.S. Postal Service is open. The Response
3 Deadline may also be extended by express agreement between Class Counsel and Defendants.
4 Under no circumstances, however, will the Settlement Administrator have the authority to
5 unilaterally extend the deadline for Class Members to submit a Request for Exclusion or
6 objection to the Settlement.

7 32. “Settlement” means the disposition of the Action pursuant to this Agreement.

8 33. “Settlement Administrator” means ILYM Group, Inc. The Parties each represent
9 that they do not have any financial interest in the Settlement Administrator or otherwise have a
10 relationship with the Settlement Administrator that could create a conflict of interest.

11 34. “Settlement Administration Costs” mean the costs payable from the Gross
12 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
13 but not limited to, translating the Notice to Spanish, printing, distributing, and tracking
14 documents for this Settlement, calculating/confirming the class member Workweeks from the
15 information contained in the Class List, calculating each Participating Class Member’s
16 Individual Settlement Payment, tax reporting, distributing the Gross Settlement Amount,
17 providing necessary reports and declarations, and other duties and responsibilities set forth
18 herein to process this Settlement, and as requested by the Parties. Settlement Administration
19 Costs shall not exceed Nineteen Thousand Dollars (\$19,000.00).

20 35. “Settlement Class Members” shall mean all Participating Class Members as
21 described in paragraph 56 and the PAGA Members.

22 36. “Workweek” shall mean any calendar week (*i.e.*, a week beginning on Sunday
23 and ending on Saturday) in which a Class Member or PAGA Member worked at least 1 day.

24 **TERMS OF AGREEMENT**

25 37. Settlement Consideration: Defendants shall fund the Gross Settlement Amount
26 and all applicable employer-side payroll taxes. The following will be paid out of the Gross
27 Settlement Amount: the sum of the Individual Settlement Payments, the Class Representative
28

Incentive Payment, Class Counsel's Fees and Costs, the PAGA Payment, and the Settlement Administration Costs, as specified in this Agreement. Except for any employer-side taxes due on the Individual Settlement Payments, or as a result of an increase in the number of workweeks as set forth below, Defendants shall not be required to pay more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will revert to Defendants.

38. Potential Increase to the Gross Settlement Amount: Defendants have represented that members of the Settlement Class worked approximately 67,422 Workweeks between February 18, 2017, and the date of the mediation. Should the actual number of Workweeks worked during that time period be more than ten percent (10%) higher than what was represented (*i.e.*, by more than 6,743 Workweeks), Defendants shall increase the Gross Settlement Amount on a *pro-rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10% (For example, if the number of Workweeks increases by 11% to 74,839 Workweeks, the Gross Settlement Amount will increase by 1%).

39. Funding of the Gross Settlement Amount: Defendants will deposit the Gross Settlement Amount and all applicable employer-side payroll taxes into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator within twenty-one days (21) calendar days of the Effective Date. Defendants shall provide all information necessary for the Settlement Administrator to calculate necessary payroll taxes including their official name, 8-digit state unemployment insurance tax ID number, and other information requested by the Settlement Administrator, no later than seven (7) calendar days of the Effective Date.

40. Distribution of the Gross Settlement Amount: Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue payments for: (a) Individual Settlement Payments; (b) the PAGA Payment to the Labor and Workforce Development Agency; (c) the Class Representative Incentive Payment; (d) Class Counsel's Fees and Costs; and (e) Settlement Administration Costs.

41. Attorneys' Fees and Costs: Defendants agree not to oppose any application or motion by Class Counsel for attorneys' fees of not more Thirty-Five Percent (35%) of the Gross Settlement Amount, *i.e.*, One Million Fifty Thousand Dollars (\$1,050,000.00), plus the reimbursement of costs and expenses associated with the litigation and settlement of the Action, in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000.00), both of which will be paid from the Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded to the Class Counsel shall be reallocated to the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

42. Class Representative Incentive Payment: Defendants agree not to oppose or object to any application or motion by Plaintiff for Class Representative Incentive Payment of Seven Thousand Five Hundred Dollars (\$7,500.00) for Plaintiff Cortez. The Class Representative Incentive Payment is in exchange for the General Release of the Plaintiff's individual claims and for his time, effort and risk in bringing and prosecuting the Action. Any portion of the requested Class Representative Incentive Payment that is not awarded to the Class Representative shall be reallocated to the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

43. Settlement Administration Costs: The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not exceed Nineteen Thousand Dollars (\$19,000.00).

44. PAGA Payment: One Hundred Thousand Dollars (\$100,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment, or Seventy-Five Thousand Dollars (\$75,000.00), to the LWDA. Twenty-Five Thousand Dollars (\$25,000.00) will be distributed to PAGA Members on a *pro rata* basis based on the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA Members shall receive their portion of the PAGA Payment regardless of their decision to

opt-out of the class settlement.

45. Net Settlement Amount for Payment of Class Claims: The Net Settlement Amount will be used to satisfy the class portion of Participating Class Members' Individual Settlement Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

Gross Settlement Amount	\$	3,000,000.00
Incentive Payment:	\$	7,500.00
Class Counsel's Fees:	\$	1,050,000.00
Class Counsel's Costs:	\$	25,000.00
PAGA Payment	\$	100,000.00
Settlement Administration Costs:	\$	19,000.00
Estimated Net Settlement Amount	\$	1,798,500.00

46. Individual Settlement Payment Calculations: Individual Settlement Payments will be paid from the Net Settlement Amount and the 25% portion of the PAGA Payment allocated for PAGA Members and shall be paid pursuant to the formula set forth herein:

a) Calculation of Class Portion of Individual Settlement Payments:

The Settlement Administrator will calculate the total Workweeks for all Participating Class Members by adding the number of Workweeks worked by each Participating Class Member during the Class Period. The respective Workweeks for each Participating Class Member will be divided by the total Workweeks for all Participating Class Members, resulting in the Payment Ratio for each Participating Class Member. Each Participating Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated share of the Net Settlement Amount.

b) Calculation of PAGA Portion of Individual Settlement Payments:

The Settlement Administrator will calculate the total Workweeks for all PAGA Members by adding the number of Workweeks worked by each PAGA Member during the PAGA Period.

The respective Workweeks for each PAGA Member will be divided by the total Workweeks for all PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member's Payment Ratio will then be multiplied by the employee portion of the PAGA Payment to calculate each PAGA Member's estimated share of the PAGA Payment. PAGA Members shall receive this portion of their Individual Settlement Payment regardless of whether they opt out of the participation regarding the class claims.

c) Allocation of Individual Settlement Payments: All Individual Settlement Payments will be allocated as follows: twenty percent (20%) of each Individual Settlement Payment will be allocated as wages, forty percent (40%) shall be allocated as interest, and forty percent (40%) shall be allocated as penalties. The portion of the Individual Settlement Payment allocated to wages will be reported by the Settlement Administrator on an IRS Form W-2. The remaining non-wage payments will be reported on an IRS Form-1099 by the Settlement Administrator.

48. No Credit Toward Benefit Plans: The Individual Settlement Payments made to Participating Class Members under this Settlement, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

49. Settlement Administration Process: The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

- a) Establish and maintain a Qualified Settlement Fund.
- b) Calculate the Individual Settlement Payment each Participating Class

Member is eligible to receive and the portion of the PAGA Payment each PAGA Member shall receive.

- c) Translate the Notice from English to Spanish.
- d) Print and mail the Notice in English and Spanish.
- e) Conduct additional address searches for mailed Notices that are returned as undeliverable.
- f) Process Requests for Exclusion, field inquiries from Class Members.
- g) Print and issue and issue Settlement Payment Checks, prepare IRS W2 and 1099 Tax Forms and any other filings required by any governmental taxing authority.
- h) Provide declarations and/or other information to this Court as requested by the Parties and/or the Court regarding the settlement administration process.
- i) Provide weekly status reports to counsel for the Parties.
- j) Posting a notice of final judgment online at Settlement Administrator's website.

50. Delivery of the Class List and Tax Rate Information: Within fourteen (14) calendar days of Preliminary Approval, Defendants will provide the Class List and Tax Rate Information to the Settlement Administrator. This is a material term of the Agreement, and if Defendants fail to comply, Plaintiff shall have the right to void the Agreement.

51. Notice by First-Class U.S. Mail: Within seven (7) calendar days after receiving the Class List from Defendants, the Settlement Administrator will mail the Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

52. Confirmation of Contact Information in the Class List: Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes.

Any Notice returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved, and will then perform a single re-mailing. If any notice sent to a Class Member by the Settlement Administrator is returned as undeliverable to a current employee, then Defendants shall make all reasonable efforts to obtain the current address from the Class Member and provide the same within seven (7) calendar days of notice from the Settlement Administrator. Those Class Members who receive a re-mailed Notice, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or an objection to the Settlement.

53. Notice: All Class Members will be mailed a Notice in English and Spanish. Each Notice will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d) the total number of Workweeks each respective Class Member worked for Defendants during the Settlement Class Period; (e) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class Period; (g) the deadlines by which the Class Member must postmark Requests for Exclusion, Objections to the Settlement, or Workweek Disputes; (h) the claims to be released, as set forth herein; and (j) the date for the final approval hearing.

54. Disputed Information on Notice: Class Members will have an opportunity to dispute the information provided in their Notice. To the extent Class Members dispute the number of Workweeks with which they have been credited or the amount of their Individual Settlement Payment, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendants' records,

Defendants' records will be presumed determinative. However, if a Class Member produces evidence to the contrary by the Response Deadline, the Parties will evaluate the evidence submitted by the Class Member and the Parties will make the final decision as to the number of eligible Workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member may be entitled. If the Parties do not agree, the dispute will be submitted to the Court.

55. Defective Submissions: If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark a revised Request for Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

56. Request for Exclusion Procedures: Any Class Member wishing to opt-out from the class settlement must sign and postmark a written Request for Exclusion to the Settlement Administrator by the Response Deadline. The Request for Exclusion must include (a) the Class Member's name, address, telephone number, and the last four digits of the Class Member's Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims similar to the following: "I wish to exclude myself from the class settlement reached in the matter of *Cortez v. Perfect Pac, L.P.* I understand that by excluding myself, I will not receive money from the settlement of my individual claims." The date of the postmark on the return mailing envelope receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has

1 been timely submitted. All Requests for Exclusion will be submitted to the Settlement
2 Administrator, who will certify jointly to Class Counsel and Defendants' Counsel the Requests
3 for Exclusion that were timely submitted. All Class Members who do not request exclusion
4 from the Action will be bound by all terms of the Settlement Agreement if the Settlement is
5 granted final approval by the Court. The Request for Exclusion shall not be effective as to the
6 release of claims arising under the Private Attorneys General Act.

7 57. Defendants' Right to Rescind: If five percent (5%) or more of the Class
8 Members (rounded to the next whole number) elect not to participate in the Settlement,
9 Defendants may, at their election, rescind the Settlement Agreement and all actions taken in
10 furtherance of it will be thereby null and void. Defendants must meet and confer with Class
11 Counsel prior to exercising this right and must make clear their intent to rescind the Agreement
12 within fourteen (14) calendar days of the Settlement Administrator notifying the Parties of these
13 opt-outs. If Defendants exercise their right to rescind the Agreement, Defendants shall be
14 responsible for all Settlement Administration Costs incurred to the date of rescission.

15 58. Settlement Terms Bind All Class Members Who Do Not Opt-Out: Upon the
16 complete funding of the Gross Settlement Amount, any Class Member who does not
17 affirmatively opt-out of the Settlement by submitting a timely and valid Request for Exclusion
18 will be bound by all of its terms, including those pertaining to the Released Class Claims, as
19 well as any Judgment that may be entered by the Court if it grants final approval to the
20 Settlement. Class Members who opt-out of the Settlement shall not be bound by such Judgment
21 or release. The names of Class Members who have opted-out of the settlement shall be
22 disclosed to the Counsel for both Plaintiff and Defendants and noted in the proposed Judgment
23 submitted to the Court.

24 59. Objection Procedures: To object to the Settlement, a Participating Class Member
25 must postmark a valid Objection to the Settlement Administrator on or before the Response
26 Deadline. The Objection must be signed by the Participating Class Member and contain all
27 information required by this Settlement Agreement including the employees full name, address,
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1 telephone number, the last four digits of their social security number and/or Employee ID
2 number, the name of the case and case number, and the specific reason including any legal
3 grounds for the Participating Class Member's objection. The postmark date will be deemed the
4 exclusive means for determining that the Notice of Objection is timely. Participating Class
5 Members who fail to object in the manner specified above will be foreclosed from making a
6 written objection, but shall still have a right to appear at the Final Approval Hearing in order to
7 have their objections heard by the Court. At no time will any of the Parties or their counsel seek
8 to solicit or otherwise encourage Participating Class Members to submit written objections to
9 the Settlement or appeal from the Order and Judgment. Class Counsel will not represent any
10 Class Members with respect to any objections to this Settlement.

11 60. Certification Reports Regarding Individual Settlement Payment Calculations:

12 The Settlement Administrator will provide Defendants' Counsel and Class Counsel a weekly
13 report which certifies: (a) the number of Class Members who have submitted valid Requests for
14 Exclusion; (b) the number of Notices returned and re-mailed and (c) whether any Class Member
15 has submitted a challenge to any information contained in the Notice. Additionally, the
16 Settlement Administrator will provide to counsel for both Parties any updated reports regarding
17 the administration of the Settlement Agreement as needed or requested.

18 61. Uncashed Settlement Checks: Any checks issued by the Settlement
19 Administrator to Participating Class Members and PAGA Members will be negotiable for at
20 least one hundred eighty (180) calendar days. If a Participating Class Member or PAGA
21 Member does not cash his or her Settlement Check or PAGA payment check within one
22 hundred eighty (180) days, the uncashed funds, subject to Court approval, shall be distributed to
23 the Controller of the State of California to be held pursuant to the Unclaimed Property Law,
24 California Civil Code §1500, *et. seq.* for the benefit of those Participating Class Members and
25 PAGA Members who did not cash their checks until such time that they claim their property.
26 The Parties agree that this disposition results in no "unpaid residue" under California Civil
27 Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Participating
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1 Class Members and PAGA Members, whether or not they all cash their Settlement Checks or
2 PAGA payment checks. Therefore, Defendants will not be required to pay any interest on such
3 amounts. The Individual Settlement Payments provided to Participating Class Members and to
4 PAGA Members shall prominently state the expiration date or a statement that the Settlement
5 Check will expire in one hundred eighty (180) days, or alternatively, such a statement may be
6 made in a letter accompanying the Individual Settlement Payment. Expired Individual
7 Settlement Payments will not be reissued, except for good cause and as mutually agreed by the
8 Parties in writing. The parties agree no unclaimed funds will result from the settlement.

9 62. Administration of Taxes by the Settlement Administrator: The Settlement
10 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and
11 Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts
12 paid pursuant to this Settlement. The Settlement Administrator will also be responsible for
13 forwarding all payroll taxes and penalties to the appropriate government authorities.

14 63. Tax Liability: Defendants make no representation as to the tax treatment or legal
15 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are
16 not relying on any statement, representation, or calculation by Defendants or by the Settlement
17 Administrator in this regard. Plaintiff and Participating Class Members understand and agree
18 that they will be solely responsible for the payment of any taxes and penalties assessed on the
19 payments described herein. Defendants' share of any employer payroll taxes and other required
20 employer withholdings due on the Individual Settlement Payments, including, but not limited
21 to, Defendants' FICA and FUTA contributions, shall be paid separate and apart from the Gross
22 Settlement Amount.

23 64. Circular 230 Disclaimer: Each Party to this Agreement (for purposes of this
24 section, the "acknowledging party" and each Party to this Agreement other than the
25 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision of this
26 Agreement, and no written communication or disclosure between or among the Parties or their
27 attorneys and other advisers, is or was intended to be, nor shall any such communication or
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disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

65. No Prior Assignments: The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

66. Release by Participating Class Members: Upon the complete funding of the Gross Settlement Amount and all applicable employer-side payroll taxes by Defendants, Participating Class Members shall fully release and discharge the Released Parties from the Released Class Claims that arose during the Class Period. This release shall be binding on all Participating Class Members.

67. Release by the State of California and LWDA: Upon the complete funding of the Gross Settlement Amount by Defendants, Plaintiff, the LWDA, and the State of California release the Released Parties of the Released PAGA Claims. Eligible PAGA Employees will receive their share of the employee portion of the PAGA Payments and will be deemed to have released any claims arising out of PAGA, regardless of whether they opt-out from the release of their class claims. The fact that a PAGA Employee has decided not to participate in the Class

Settlement shall not affect the Release of PAGA Claims under the PAGA for the PAGA Period. The Parties agree that there is no right for a PAGA Employee to opt out of or object to the PAGA Settlement. A copy of this Agreement will be provided by Class Counsel to the LWDA concurrently with the submission of the Preliminary Approval Motion.

68. Release of Additional Claims & Rights by Plaintiff: Upon the funding of the Gross Settlement Amount, Plaintiff Cortez agrees—on behalf of himself only—to the additional following General Release: In consideration of Defendants’ promises and agreements as set forth herein, Plaintiff hereby fully releases the Released Parties from any and all Released Class Claims and Released PAGA Claims and also generally releases and discharges the Released Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against the Released Parties arising out of or relating to their employment by Defendants or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful termination of employment. This release specifically includes any and all claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest, and attorneys’ fees and costs (except provided by the Settlement Agreement) relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. Specifically, Plaintiff Cortez, waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

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.

This release specifically excludes claims for unemployment insurance, disability, social

1 security, and workers compensation (with the exception of claims arising pursuant to California
2 Labor Code Sections 132(a) and 4553).

3 69. Neutral Employment Reference: Defendants agree that they will adopt a neutral
4 reporting policy regarding any future employment references related to Plaintiff. In the event
5 that any potential or future employers of Plaintiff requests a reference regarding Defendants'
6 employment of Plaintiff, Defendants shall only provide the requested Plaintiff's dates of
7 employment and job titles during employment. Defendants shall not refer to the Action or this
8 Settlement.

9 70. Nullification of Settlement Agreement: In the event that: (a) the Court does not
10 finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any
11 material term of this Settlement Agreement; or (c) the Settlement does not become final as
12 written and agreed to by the Parties for any other reason, then this Settlement Agreement, and
13 any documents generated to bring it into effect, will be null and void, all amounts deposited into
14 the QSF will be returned to Defendants, and the Parties shall be returned to their original
15 respective positions. Any order or judgment entered by the Court in furtherance of this
16 Settlement Agreement will likewise be treated as void from the beginning. Should the Court fail
17 to approve this settlement for any reason, the Parties agree that they will return to and attend
18 mediation with a mutually agreed Mediator in an effort to reach a settlement that may be
19 approved by the Court.

20 71. Preliminary Approval Hearing: Plaintiff will obtain a hearing before the Court to
21 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
22 Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes
23 only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for
24 a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for
25 the Notice to be sent to all Class Members as specified herein. In conjunction with the
26 Preliminary Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms
27 of the Settlement, and will include the proposed Notice attached as Exhibit A. Defendants agree
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that they will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the Court to fully and completely approve the Agreement as to the Action will result in this Settlement Agreement, entered into by the Parties, and all obligations under this Settlement Agreement being nullified and voided.

72. Final Settlement Approval Hearing and Entry of Judgment: Upon expiration of the deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the Class Representative Incentive Payment; and (d) the Settlement Administration Costs. Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval. Any failure by the Court to fully and completely approve the Settlement Agreement as to all of the Action, or the entry of any Order by another Court with regard to any of the Action which has the effect of modifying material terms of this Agreement or preventing the full and complete approval of the Settlement Agreement as written and agreed to by the Parties, will result in this Agreement and all obligations under this Agreement being null and void. Defendants agree they shall not oppose the granting of the Motion for Final Approval, provided Defendants have not exercised their right to rescind pursuant to the terms of this Agreement.

73. Judgment and Continued Jurisdiction: Upon Final Approval of the Settlement by the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

74. Exhibits Incorporated by Reference: The terms of this Settlement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

1 75. Entire Agreement: This Settlement Agreement and any attached Exhibits
2 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous
3 written or oral agreements may be deemed binding on the Parties.

4 76. Amendment or Modification: This Settlement Agreement may be amended or
5 modified only by a written instrument signed by counsel for all Parties or their successors-in-
6 interest.

7 77. Authorization to Enter Into Settlement Agreement: Counsel for all Parties
8 warrant and represent they are expressly authorized by the Parties whom they represent to
9 negotiate this Settlement Agreement and to take all appropriate action required or permitted to
10 be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to
11 execute any other documents required to effectuate the terms of this Settlement Agreement. The
12 Parties and their counsel will cooperate with each other and use their best efforts to affect the
13 implementation of the Settlement. If the Parties are unable to reach agreement on the form or
14 content of any document needed to implement the Settlement, or on any supplemental
15 provisions that may become necessary to effectuate the terms of this Settlement, the Parties may
16 seek the assistance of the Court to resolve such disagreement.

17 78. Binding on Successors and Assigns: This Settlement Agreement will be binding
18 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
19 defined.

20 79. California Law Governs: All terms of this Settlement Agreement and Exhibits
21 hereto will be governed by and interpreted according to the laws of the State of California.

22 80. Execution and Counterparts: This Settlement Agreement is subject only to the
23 execution of all Parties. However, the Settlement Agreement may be executed in one or more
24 counterparts. All executed counterparts and each of them, including facsimile and scanned
25 copies of the signature page, will be deemed to be one and the same instrument provided that
26 counsel for the Parties will exchange among themselves original signed counterparts.

27 81. Acknowledgement that the Settlement is Fair and Reasonable: The Parties
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1 believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action
2 and have arrived at this Settlement after arm's-length negotiations and in the context of
3 adversarial litigation, taking into account all relevant factors, present and potential. The Parties
4 further acknowledge that they are each represented by competent counsel and that they have had
5 an opportunity to consult with their counsel regarding the fairness and reasonableness of this
6 Settlement.

7 82. Invalidity of Any Provision: Before declaring any provision of this Agreement
8 invalid, the Court will first attempt to construe the provision as valid to the fullest extent
9 possible consistent with applicable precedents so as to define all provisions of this Agreement
10 valid and enforceable.

11 83. Waiver of Certain Appeals: The Parties agree to waive appeals and to stipulate to
12 class certification for purposes of this Settlement only; except, however, that either party may
13 appeal any court order that materially alters the Settlement Agreement's terms.

14 84. Class Action Certification for Settlement Purposes Only: The Parties agree to
15 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
16 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
17 that certification for purposes of the Settlement is not an admission that class action certification
18 is proper under the standards applied to contested certification motions and that this Agreement
19 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
20 should be certified or (b) Defendants are liable to Plaintiff or any Class Member, other than
21 according to the Settlement's terms.

22 85. Non-Admission of Liability: The Parties enter into this Agreement to resolve the
23 dispute that has arisen between them and to avoid the burden, expense and risk of continued
24 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, they
25 have violated any federal, state, or local law; violated any regulations or guidelines promulgated
26 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
27 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
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engaged in any other unlawful conduct with respect to their employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendants of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendants or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

86. Captions: The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

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

88. Dispute About Terms: Should a dispute arise about the terms of this Agreement, such disputes shall be submitted to Jeffrey Ross for consultation.

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

90. Mutual Preparation: The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length

negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

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

92. All Terms Subject to Final Court Approval: All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

93. Cooperation and Execution of Necessary Documents: The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement. Defendants agree not to obtain any settlement agreement waivers, *Pick-Up Stix* agreements or arbitration agreements from any Class Member prior to the funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter into any arbitration agreement with any Class Member that covers the claims released via this Agreement during the Settlement approval process prior to the funding of the Gross Settlement Amount and that the Parties will work in good faith to reach an agreement approved by the Court.

94. Confidentiality: The Parties and their counsel agree to keep the terms of the Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff, Class Counsel, Defendants and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement Agreement shall limit Defendants' ability to fulfill disclosure obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in this Settlement Agreement or limit Class Counsel's communications with the Class

Members in furtherance of approval of this Settlement.

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

PLAINTIFF

Dated: 12/23/2022

DocuSigned by:

Ruben Cortez

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Ruben Cortez

DEFENDANT PERFECT PAC, L.P.

Dated: 1/5/2023

By: Dennis Prosper

Name: Dennis Prosper

Title: CEO

DEFENDANT PERFECT PAC, INC.

Dated: 1/5/2023

By: Dennis Prosper

Name: Dennis Prosper

Title: CEO

DEFENDANT RANOCHE CREEK PACKING, INC.

Dated: 01/03/2023

By: Frank Roque

Name: Frank Roque

Title: President