

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Maria Del Carmen Espinoza (“Plaintiff” or “Class Representative”), individually and on behalf of all members of the Settlement Class, defined below, on the one hand, and Defendants Juan C. Gutierrez dba J.C. Gutierrez Labor Service (“Gutierrez”), and Visalia Citrus Packing Group, Inc. (“VCPG”) (collectively Gutierrez and VCPG are referred to herein as “Defendants”) on the other. Plaintiff and Defendants are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Daniel J. Brown of Stansbury Brown Law, PC and Reuben D. Nathan of Nathan & Associates, APC (“Class Counsel”). Gutierrez is represented by Alden J. Parker and Rebecca A. Hause-Schultz of Fisher & Phillips LLP. VCPG is represented by Patrick S. Moody and Catherine M. Houlihan of Barsamian & Moody, A Professional Corporation.

Plaintiff filed an individual complaint (“Complaint”) against Defendants on March 23, 2021 in Tulare County Superior Court, Case No. VCU286326, which alleges causes of action for: (1) minimum wage violations (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) wage statement violations; (6) waiting time penalties; and (7) unfair competition.

Plaintiff filed a First Amended Representative Action Complaint (“FAC”) on May 28, 2021, to add an additional cause of action for civil penalties under the Private Attorneys General Act (“PAGA”) pursuant to Labor Code Sections 2698 *et seq.* After further investigation, Plaintiff determined that it was appropriate for this action to proceed on a class action basis and after meeting and conferring with Defendants the Parties agreed to stipulate to Plaintiff filing a Second Amended Class and Representative Action Complaint (“SAC”), which this Court deemed filed on July 26, 2021. Together the Complaint, FAC, and SAC are referred to hereinafter as the “Lawsuit”.

Given the risks and uncertainties of litigation, the Parties have agreed to settle this Lawsuit on the terms set forth herein and subject to the approval of Court. Nothing herein shall be construed as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in this Lawsuit.

In addition, Defendants and Plaintiff conditionally enter into this Settlement Agreement contingent upon Class Counsel’s financial expert’s determination of Defendant Gutierrez’s financial condition. On March 3, 2022, the Parties accepted a mediator’s proposal for a tentative non-reversionary common fund settlement in the amount of \$400,000.00. The Parties have since met and conferred and on July 20, 2022, the Parties agreed to fully resolve this matter for \$415,000. The amount as agreed is subject to Defendant Gutierrez’s informal production of certain financial documentations for Plaintiff’s third-party forensic accountant’s review and determination of Defendant Gutierrez’s financial health and ability to pay an amount significantly more than the agreed to settlement amount. In the event Class Counsel is not satisfied with that review, Plaintiff may unilaterally terminate this Stipulation and it shall be deemed null and void, it shall be of no force or effect whatsoever, it shall not be referred to or used for any purpose whatsoever, and the negotiation, terms, and entry of it shall remain subject to the provisions of California Evidence Code sections 1119 and 1152.

1. Certification for Settlement Purposes. For the purposes of this Settlement Agreement only, the Parties stipulate to certification of the following Settlement Class:

Settlement Class – All current and former non-exempt employees of Defendant Juan C. Gutierrez dba J.C. Gutierrez Labor Service in California who were subject to Wage Order 14 and worked at least one day performing work for Defendant Visalia Citrus Packing Group, Inc., at any time during the period of March 23, 2017, to April 18, 2022 (“Class Period”) (“Settlement Class” or “Settlement Class Members”)

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure or Federal Rule of Civil Procedure Rule 23.

If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. Releases.

A. **Releases by Settlement Class Members.** Plaintiff and every member of the Settlement Class (except those who opt out, as described below) will fully release and discharge Defendants, their past and present officers, directors, shareholders, employees, agents, principals, heirs, representatives, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, and attorneys (collectively the “Released Parties”) for all claims that were pled or could have been pled based on the factual allegations and class definition in the SAC for work performed by Defendant Juan C. Gutierrez dba J.C. Gutierrez Labor Service for Defendant Visalia Citrus Packing Group, Inc., including: (a) minimum wage violations (b) failure to pay all overtime wages; (c) meal period violations; (d) rest period violations; (e) wage statement violations; (f) waiting time penalties; (g) all claims arising out of unfair business practices under Business & Professions Code § 17200, *et seq.* that could have been premised on the claims that were pled or could have been pled based on the factual allegations in the SAC; and (i) all claims for civil penalties under the PAGA, that could have been premised on the claims that were pled or could have been pled based on the factual allegations in the SAC (collectively, the “Released Claims”). For members of the Settlement Class who do not validly opt out, the release period shall run from March 23, 2017, through April 18, 2022 (“Class Period”). Specifically excluded from this release are any claims any individual might otherwise have in the putative wage and hour class action entitled *Juvenal Gaona Vargas v. Cal-Citrus Labor Service, Inc., et al.*, Case No. VCU282013 (“*Vargas Action*”). The *Vargas* action does not assert or contemplate any claims as to Defendant J.C. Gutierrez Labor Service.

B. **Plaintiff’s Release of Unknown Claims.** In light of her Class Representative Enhancement Payment, Plaintiff, Maria Del Carmen Espinoza, has agreed to

release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that she is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, 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.

However, to the extent that Plaintiff has claims that cannot be released as a matter of law (i.e., workers' compensation claims), then those claims will not be released.

- C. The Releases described above shall be null and void if the Settlement is not fully funded.

3. Settlement Payment. In exchange for the releases set forth in this Settlement Agreement, Defendants have agreed to pay Four Hundred Fifteen Thousand Dollars and Zero Cents (\$415,000.00) (the "Maximum Settlement Amount") with \$160,000 contributed by VCPG and the remaining \$255,000 contributed by Defendant J.C. Gutierrez Labor Service, resulting in full and complete settlement of this matter, as follows:

- A. The Maximum Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) court days after the date the Court enters an order granting final approval of the settlement or, solely in the event that there are any objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review ("the Final Effective Date").
- B. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
 - (1) All payments to the Settlement Class;
 - (2) All fees and expenses of the Settlement Administrator associated with the administration of the settlement, which, unless the scope of the work or class size increase significantly, will be a maximum of Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Enhancement Payment, subject to Court approval, in recognition of Plaintiff's general release of claims, contributions to the Lawsuit, and service to the Settlement Class. In the event that the Court reduces or does not approve the requested Enhancement Payment, the Settlement Agreement remains in full

force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;

(4) Up to one-third of the Maximum Settlement Amount in attorneys' fees, which is currently estimated to be One Hundred Thirty-Eight Thousand Dollars and Zero Cents (\$138,000.00), plus up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. In the event that the Court reduces or does not approve Class Counsel's requested fees and costs, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding; and

(5) Five Thousand Dollars and Zero Cents (\$5,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) will be payable to the Settlement Class as the "PAGA Amount."

C. Defendants' share of payroll taxes shall be paid by Defendant Gutierrez separately from, and in addition to, the Maximum Settlement Amount.

D. **Escalator Clause.** Defendants represent that as of February 25, 2022, there were approximately 1,748 Settlement Class Members. If, as of April 18, 2022, the number of Settlement Class Members has increased by 17% or more (i.e., if there are 2,046 or more Settlement Class Members), then Defendants shall increase the Maximum Settlement Amount on a pro-rata basis equal to the increase in class size beyond 17% (e.g., if the actual class size were 25% greater than 2,046 Settlement Class Members, Defendants will increase the Maximum Settlement Amount by 25%).

4. **Settlement Award Procedures.** Settlement Class Members are not required to submit a claim form to receive their Individual Settlement Award. Individual Settlement Awards will be determined and paid as follows:

A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for the Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment. The remaining amount shall be known as the "Net Settlement Fund."

B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class Member's Individual Settlement Award.

Settlement Awards shall be based on the following formula:

- i. PAGA Amount: Each Class Member, regardless of whether they opt-out of other portions of the Settlement, who was employed by Gutierrez and performed work for Visalia Citrus Packing Group, Inc. during the pay period based on Gutierrez's records at any time from March 23, 2020, to April 18, 2022, shall receive a portion of the One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) of the Net Settlement Fund that has been designated as the "PAGA Amount" proportionate to the number of pay periods that he or she worked during the period from March 23, 2020, to April 18, 2022.
- ii. The remainder of the Net Settlement Fund shall be distributed to each participating Settlement Class Member based on their proportionate share of Eligible Workweeks (defined below) during the Class Period, by multiplying the remaining Net Settlement Fund by a fraction, the numerator of which is the participating Settlement Class Member's Eligible Workweeks during the Class Period, and the denominator of which is the total Eligible Workweeks of all participating Settlement Class Members during the Class Period.

An "Eligible Workweek" shall be any workweek in which the Class Member worked at least one day for Gutierrez performing work for Visalia Citrus Packing Group, Inc. during the workweek based on Gutierrez's records.

- C. Within ten (10) days following the funding of the Maximum Settlement Amount with the Settlement Administrator by Defendants, the Settlement Administrator will calculate Individual Settlement Award amounts and will: (i) prepare and mail Individual Settlement Awards to participating Settlement Class Members less applicable taxes and withholdings; (iii) transfer to the LWDA its share of the PAGA Amount; (iv) prepare and mail Plaintiff's Enhancement Payment; and, (v) wire to Stansbury Brown Law Class Counsel's attorneys' fees and verified costs;
- D. For purposes of calculating applicable taxes and withholdings for the Settlement Class Members, twenty percent (20%) of each Individual Settlement Award shall be designated as wages subject to W-2 reporting and normal payroll withholdings; the remaining eighty percent (80%) of each Individual Settlement Award shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. The Settlement Administrator shall be responsible for calculating and withholding all employee-share employment taxes and other legally required withholdings from each Individual Settlement Payment. Notwithstanding the treatment of the payments to each Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each Settlement Class Member who receives an Individual Settlement Award must negotiate the settlement check within one hundred eighty (180) days from the date

of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Settlement Class Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued, except for good cause and as mutually agreed by the Parties in writing. If a Settlement Class Member does not cash his or her settlement check within 180 days, the uncashed funds, subject to Court approval, shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of those Settlement Class Members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure Code § 384, as the entire Net Settlement Fund will be paid out to Settlement Class Members, whether or not they cash their settlement checks. Therefore, Defendants will not be required to pay any interest on such amounts. The Parties agree no unclaimed funds will result from the settlement.

- F. Neither Plaintiff nor Defendants shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by her or its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Class Counsel’s Attorneys’ Fees and Litigation Costs.** Defendants will not object to a request for a total award of attorneys’ fees to Class Counsel of one-third of the Maximum Settlement Amount, which is currently estimated to be One Hundred Thirty-Eight Thousand Dollars and Zero Cents (\$138,000.00), plus up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court’s approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court.

6. **Plaintiff’s Enhancement Payment.** Defendants will not object to a request for a Class Representative Enhancement Payment for Plaintiff of Five Thousand Dollars and Zero Cents (\$5,000.00) in exchange for the general release of her claims, her time, and risks in prosecuting this case, and her service to the Settlement Class. This payment will be in addition to Plaintiff’s Individual Settlement Award as a Settlement Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Enhancement Payment to the Plaintiff is for her services in connection with this Lawsuit and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Enhancement and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Enhancement does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancements constitute wages for income tax and withholding purposes. Plaintiff agrees to assume the responsibility of remitting to

the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendants from the Enhancement paid under this Settlement Agreement. In addition, Plaintiff shall hold Defendants, Defendants' Counsel, Released Parties and Class Counsel harmless and indemnify Defendants, Defendants' Counsel, Released Parties and Class Counsel for all taxes, interest, penalties, other payments and costs, incurred by Defendants by reason of any claims relating to the non-withholding of taxes from the Enhancement.

7. **Settlement Administrator.** Defendants will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator nor to Class Counsel seeking Court approval to pay up to Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00) from the Maximum Settlement Amount for its services. The Settlement Administrator shall be responsible for sending all required notices in both English and Spanish, calculating the Net Settlement Fund, calculating each Class Member's Individual Settlement Award amount, preparing all checks and mailings and disbursing all residuals resulting from uncashed settlement checks as set forth in Section 4(E). The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all Settlement Class Members.

8. **Preliminary Approval.** Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel J. Brown of Stansbury Brown Law, PC and Reuben Nathan of Nathan & Associates as Class Counsel;
- C. Appointing Maria Del Carmen Espinoza as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Objection Form), and directing the mailing of same in English and Spanish; and
- G. Scheduling a Final Approval hearing.
- H. At the same time the Settlement is presented to the Superior Court for Preliminary Approval, Plaintiff shall submit the proposed settlement to the Labor Workforce Development Agency ("LWDA") pursuant to Labor Code § 2699(1)(2). Proof of this submission will be provided to Defendants' respective Counsel.
- I. If Final Approval is granted, Plaintiff shall submit a copy of the Superior Court's judgement within ten (10) days after entry of the judgement or order, pursuant to

Labor Code § 2699(1)(3). Proof of this submission will be provided to Defendants' respective Counsel.

9. **Notice Procedures.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within fourteen (14) days after entry of an order preliminarily approving this Settlement Agreement, Gutierrez will provide the Settlement Administrator with a class list including the names, last known addresses, and social security numbers (in electronic format) of Settlement Class Members, as well as the total workweeks worked by each member of the Settlement Class during the Class Period and PAGA Period.
- B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet in English and Spanish to each Settlement Class Member, at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. The Settlement Administrator shall use its best professional efforts, including utilizing a "skip trace," to track any Settlement Class Member's mailing returned as undeliverable, and will re-send the Notice Packet promptly upon identifying updated mailing addresses through such efforts. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member.
- D. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member immediately, and in any event within three (3) business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have thirty (30) days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion, challenge or objection.
- E. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").

- i. The Request for Exclusion Form must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3) be signed by the Settlement Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form fails to comply with items (1)-(3), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion Form not containing a Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion Form, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to their share of the PAGA Amount) or have any right to object, intervene, appeal or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion Form is automatically deemed a participating Settlement Class Member.
- F. **Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendants' counsel as well as filing them with the Court). Defendants' counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendants' counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and current address; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) objections must be postmarked on or before the Response Deadline.
- G. **Challenges to Individual Settlement Award Calculations.** Each Notice Packet mailed to a Settlement Class Member shall disclose the amount of the Settlement Class Member's estimated Settlement Award as well as all of the information that was used from Gutierrez's records in order to calculate the Settlement Award, including the Settlement Class Member's number of Eligible Workweeks during the Class Period, and the number of pay periods worked during the PAGA Period. Settlement Class Members will have the opportunity, should they disagree with Gutierrez's records regarding the number of Eligible Workweeks and/or pay periods stated in their Notice Packet to challenge the data provided. In order to challenge Gutierrez's data, the Settlement Class Member must provide documentation and/or an explanation demonstrating that Gutierrez's data is incorrect and evidencing the correct number of Eligible Workweeks and or pay

periods that the Settlement Class Member believes they should have been credited with. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.

- H. **Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's Individual Settlement Awards, the allocation of W-2 wages, and the number of Eligible Workweeks and/or pay periods. Where the information submitted by Gutierrez from its records differs from the information submitted by the Settlement Class Member, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and defense counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will determine the eligibility for and amount of any Settlement Award. Such determination shall be binding upon the Settlement Class Member and the Parties.

10. **Final Approval Process.** Following preliminary approval and the close of Response Deadline under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff and Class Counsel's application for Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

11. **Non-Admission.** Defendants deny that they have engaged in any unlawful activity, that they have failed to comply with the law in any respect, that they have any liability to anyone under the claims asserted in the Lawsuit, and that but for this settlement a class should not be certified in this Lawsuit. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendants. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at the addresses set forth below, or such other addresses as the Parties may designate in writing from time to time:

if to Juan C. Gutierrez dba J.C.
Gutierrez Labor Service:

Alden J. Parker
Rebecca A. Hause-Schultz
FISHER & PHILLIPS LLP
621 Capitol Mall, Suite 1400
Sacramento, California 95814
Telephone: (916) 210-0391
Facsimile: (916) 210-0401
aparker@fisherphillips.com
rhause-schultz@fisherphillips.com

if to Visalia Citrus Packing
Group, Inc.:

Patrick S. Moody
Catherine M. Houlihan
BARSAMIAN & MOODY
A Professional Corporation
1141 W. Shaw Avenue, #104
Fresno, CA 93711
pmoody@theemployerslawfirm.com
choulihan@theemployerslawfirm.com

if to Plaintiff:

Daniel J. Brown, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
dbrown@stansburybrownlaw.com

14. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

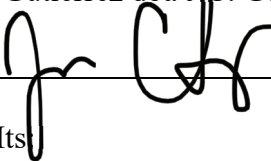
15. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

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EXECUTION BY PARTIES AND COUNSEL

DATED: **Aug 19, 2022** Juan C. Gutierrez dba J.C. Gutierrez Labor Service

By:  _____
Its:

DATED: Visalia Citrus Packing Group, Inc.

By: _____

Its:

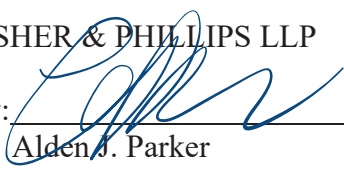
DATED: Maria Del Carmen Espinoza

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: August 19, 2022

FISHER & PHILLIPS LLP

By:  _____
Alden J. Parker
Rebecca A. Hause-Schultz
Attorneys for Defendant Juan C. Gutierrez dba
J.C. Gutierrez Labor Service

DATED: BARSAMIAN & MOODY
A Professional Corporation

By: _____
Patrick S. Moody
Catherine M. Houlihan
Attorneys for Defendant Visalia Citrus Packing Group,
Inc.

EXECUTION BY PARTIES AND COUNSEL

DATED:

Juan C. Gutierrez dba J.C. Gutierrez Labor Service

By: _____

Its:

DATED:

8/19/22

Visalia Citrus Packing Group, Inc.

By: RJH

Its: CFO

DATED:

Maria Del Carmen Espinoza

8-17-22

By: Yana Espinoza
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

FISHER & PHILLIPS LLP

By: _____

Alden J. Parker

Rebecca A. Hause-Schultz

Attorneys for Defendant Juan C. Gutierrez dba

J.C. Gutierrez Labor Service

DATED:

8/19/22

BARSAMIAN & MOODY

A Professional Corporation

By: Catherine M. Houlihan

Patrick S. Moody

Catherine M. Houlihan

Attorneys for Defendant Visalia Citrus Packing Group,
Inc.

DATED: August 17, 2022 STANSBURY BROWN LAW, PC

By: 
Daniel J. Brown
Attorneys for Plaintiff

DATED: August 18, 2022

NATHAN & ASSOCIATES, APC

By: 
Reuben D. Nathan
Attorneys for Plaintiff