

This Joint Stipulation of PAGA Representative Action Settlement and Release of Claims (“Settlement” or “Agreement”) is made and entered into by and between Plaintiffs Aurora Hernandez Ornelas and Patricia Morales Villegas (“Plaintiffs” or PAGA Representatives), individually and on behalf of the State of California, all aggrieved employees, and Defendant Latitude 36 Foods LLC. (“Defendant”). Plaintiffs and Defendant are collectively referred to herein as “the Parties.”

I. DEFINITIONS

The following definitions are applicable to this Settlement, in addition to other terms defined elsewhere in this Settlement:

1. “Superior Court” shall mean the Superior Court of California for the County of Riverside.
2. The “Action” shall mean the operative Second Amended Complaint of the civil action commenced on March 12, 2021, filed and maintained by Plaintiffs against Defendant in the Superior Court of California, County of Riverside, Case No. CVRI2101366.
3. “Plaintiffs’ Counsel” shall mean the attorneys representing Plaintiffs in the Action, Marcus Bradley of Bradley Grombacher; and Sahag Majarian II of the Law Offices of Sahag Majarian II.
4. “Defense Counsel” shall mean the attorneys representing Defendant in the Action, Matthew C. Sgnilek and Andrea Rosenkranz of O’Hagan Meyer.
5. “Representative Period” shall mean the period of time from May 12, 2020, through the date of the Court’s granting approval of the Settlement or May 27, 2022, whichever is earlier.
6. “Aggrieved Employees” shall mean all persons who, during the Representative Period, have previously been or currently are employed in California by Defendant, as an hourly-paid, non-exempt employee. If any Aggrieved Employee is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification shall also be deemed an Aggrieved Employee for purposes of this Settlement.

7. "Settlement Administrator" shall mean Phoenix Settlement Administrators proposed by the Parties and appointed by the Superior Court to administer the Settlement.

8. "Plaintiffs' Counsel Fees Payment" shall mean one-third of the Gross Settlement Amount [currently estimated to be One Hundred and Eighty Thousand Dollars (\$180,000.00), unless the Gross Settlement Amount is increased pursuant to Paragraph I.15 below, in which case the attorneys' fees estimate shall also increase], subject to approval by the Superior Court as Plaintiffs' Counsel's attorneys' fees incurred in connection with the Action, including fees incurred in pre-filing investigation, filing of the Action, and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.

9. "Plaintiffs' Counsel Litigation Expenses Payment" shall mean the actual litigation expenses and/or costs expended by Plaintiff's Counsel subject to approval by the Superior Court incurred in connection with the Action, including pre-filing investigation, filing of the Action, and all related litigation activities, this Settlement, and all post-Settlement compliance procedures. Plaintiff's Counsel's expenses are not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

10. "Representative Enhancement Payment" shall mean the special payment made to Plaintiff Ornelas in her capacity as PAGA Representative to compensate her for prosecuting the Action, performing work in support of the Action, and for executing a general release of all known and unknown claims against Defendants in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00), subject to approval by the Superior Court.

11. "Settlement Administrator Payment" shall mean the payment to the Settlement Administrator for its fees and expenses in administering this Settlement which shall not exceed Five Thousand Two Hundred Fifty Dollars and Zero Cents (\$5,250.00).

12. "Pay Period" shall mean any pay period in which an Aggrieved Employee actually received payment from Defendants as an hourly-paid, non-exempt employee.

13. "Individual Pay Periods" shall mean the number of Pay Periods for an individual Aggrieved Employee.

14. “Gross Settlement Amount” shall mean the Gross Settlement Amount of Five Hundred and Forty Thousand Dollars and Zero Cents (\$540,000.00) payable by Defendant as provided by this Agreement, unless that amount is increased pursuant to Paragraph I.15 below.

15. Defendant represents that as of March 18, 2022, the number of qualifying pay periods worked by the Aggrieved Employees is approximately 37,931. Should the number of qualifying Pay Periods worked by the Aggrieved Employees during the Representative Period ultimately increases by more than 15% (i.e., by more than 5,690 Pay Periods), Defendant shall increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Pay Periods worked by the Aggrieved Employees above 15%. For example, if the number of Pay Periods increases by 16% to 6069 Pay Periods, the Gross Settlement Amount will increase by 1% not 16%.

16. “PAGA Payment” shall mean the Gross Settlement Amount, less (i) the Representative Enhancement Payment approved by the Superior Court; (iii) Plaintiffs’ Counsel Fees Payment approved by the Superior Court; (iv) Plaintiffs’ Counsel Litigation Expenses Payment approved by the Superior Court; and (v) the Settlement Administrator Payment approved by the Superior Court.

17. “LWDA Payment” shall mean the payment to the California Labor and Workforce Development Agency (“LWDA”) constituting seventy-five percent (75%) of the PAGA Payment.

18. “Aggrieved Employees Payment” shall mean the remaining twenty-five percent (25%) of the PAGA Payment to be distributed on a pro rata basis based upon the number of Pay Periods worked by each Aggrieved Employee.

19. “Aggrieved Employees Payment Share” shall mean the value of each Aggrieved Employee’s share of the Aggrieved Employees Payment as provided by this Agreement.

20. “Aggrieved Employees Notice” shall mean the Notice of Settlement and Approval written in both English and Spanish, a sample of which is attached hereto as Exhibit A. The Aggrieved Employees Notice shall further contain (i) an Aggrieved Employee’s first and last name, (ii) last known address, (iii) employee identification number, if applicable, (iv) the

Aggrieved Employee's Individual Pay Periods; and (v) the Aggrieved Employee's individual share of the Aggrieved Employees Payment.

21. "Effective Date" shall mean the date by which this Settlement is approved by the Superior Court by entry of the Judgment and the Judgment becomes Final. If no appeal is filed the Effective Date shall occur 60 days from entry of Judgment by the Court. If a timely appeal is filed the Judgment shall become final on the date all appeals from the Judgment have been fully adjudicated. The occurrence of the Effective Date is a prerequisite to any obligation of Defendant to pay any funds into the Settlement Account.

22. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court that the Parties anticipate will be entered following an Approval Hearing on the Settlement in this Action.

II. RECITALS

1. On March 12, 2021, Plaintiffs commenced the Action against Defendant by filing a Class Action Complaint. In their Complaint, Plaintiffs pled causes of action for (1) Failure to Pay All Wages In Violation of Labor Code sections 510, 1194, 1198; (2) Violations of California Labor Code section 204; (3) Short Meal Breaks In Violation of California Labor Code sections 200, 226.7 and 512; (4) Short Rest Breaks in Violation of California Labor Code sections 200, 226.7 and 512; (5) Failure to Pay All Wages Owed At Termination In Violation of California Labor Code section 203; (6) Failure to Furnish an Accurate Itemized Wage Statement Upon Payment of Wages in Violation of California Labor Code section 226; and (7) Violation of California Business and Professions Code section 17200 et seq.

2. On March 12, 2021, Plaintiffs' Counsel, on behalf of Plaintiffs and the Aggrieved Employees, gave written notice to the LWDA of the Labor Code violations Defendant is alleged to have violated ("PAGA Letter"). The PAGA Letter included the following liability theories: (1) Failure to Pay All Wages In Violation of Labor Code sections 510, 1194, 1198; (2) Violations of California Labor Code section 204; (3) Failure to Provide Meal Breaks In Accordance with California law; (4) Failure to Provide Rest Breaks in Accordance With California law; (5) Failure

to Pay All Wages Owed At Termination In Violation of California Labor Code section 203; and (6) Failure to Furnish an Accurate Itemized Wage Statement Upon Payment of Wages in Violation of California Labor Code section 226.

3. On July 15, 2021, Plaintiffs amended their Complaint to add an eighth cause of action for Civil Penalties pursuant to the California Labor Code Private Attorneys' General Act, Labor Code §§ 2698, *et seq.* ("PAGA").

4. On September 1, 2021 Plaintiffs requested that the Court dismiss their first seven causes of action without prejudice leaving only their cause of action for Civil Penalties pursuant to PAGA. On September 23, 2021 the Court granted that request and dismissed Plaintiffs' first seven causes of action without prejudice leaving only their cause of action for Civil Penalties pursuant to PAGA. Plaintiffs filed a Second Amended Complaint on October 5, 2021 asserting a single cause of action for Civil Penalties pursuant to PAGA.

5. Defendant denies and continue to deny all of Plaintiffs' material allegations. Specifically, Defendant contends (1) it did not fail to pay the Aggrieved Employees wages nor permit off the clock work; (2) it did not fail to timely pay the Aggrieved Employees their wages during their employment; (3) it did not fail to provide Aggrieved Employees the opportunity to take meal periods in accordance with applicable law; (4) it did not fail to provide Aggrieved Employees the opportunity to take rest periods in accordance with applicable law; (5) it did not fail to pay the Aggrieved Employees all wages owed at the time of separation; (6) it provided the Aggrieved Employees with accurate itemized wage statements, consistent with Labor Code Section 226; (7) it properly maintained all payroll records; (8) the Aggrieved Employees are not entitled to penalties under PAGA; and (9) Defendant is not liable for penalties, attorneys' fees, or costs of litigation to Plaintiff or the Aggrieved Employees.

6. In connection with the Action, and in order to work toward a mediated resolution without the time and expense of formal discovery, the Parties produced voluminous documents and data (including, by Defendant, human resources documents and policies, time records, and payroll data during the Representative Period) which were reviewed, investigated, and analyzed

by Plaintiffs' Counsel.

7. On March 28, 2022, the Parties in the Action participated in a full day of mediation before an experienced employment and class and representative action mediator, Steven J. Rottman, Esq., which resulted in a settlement of the Action, subject to approval by the Superior Court (the "Mediation").

8. The Settlement described in this Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission by Defendant that Plaintiffs' claims in the Action have any merit or that it has any liability to Plaintiffs, the Aggrieved Employees, or the State on those claims, or as an admission by Plaintiffs that Defendant's defenses in Action have any merit. This Settlement is intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and conditions set forth in this Settlement.

9. Based on its own thorough, independent investigation and evaluation of this case, Plaintiffs' Counsel is of the opinion that the Settlement of the Action with Defendant for the consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the best interest of the Aggrieved Employees in light of all known facts and circumstances, including the risk of significant costs and delay, the defenses asserted by Defendant including the risks of adverse determinations on the merits, and potential appellate issues. Although Defendant contends that it has no liability in the Action, Defense Counsel shares Plaintiffs' Counsel's belief that the Settlement represents a fair and adequate settlement given the respective risks associated with the case.

10. Based on the foregoing Recitals, the Parties agree as follows:

III. PROCEDURE FOR APPROVING SETTLEMENT

11. **Motion for Approval of Settlement by the Superior Court.** Plaintiff will move the Superior Court for an order granting Approval of the Settlement and approving the Aggrieved Employees Notice (attached as Exhibit A to this Stipulation) ("Motion for Approval"). The hearing on the Motion for Approval of Settlement shall be scheduled as soon as the matter may be

heard. Any unresolved disagreement among the Parties concerning the Aggrieved Employees Notice or other documents necessary to implement the Settlement will be referred first to Steve J. Rottman, Esq., and if no resolution is reached, then to the Superior Court.

12. At the hearing on the Motion for Approval, the Parties anticipate that they will jointly appear, support the granting of the Motion for Approval, and obtain an order granting approval of the Settlement, and granting approval of the Aggrieved Employees Notice.

13. Should the Superior Court require any amendments to this Agreement or the Motion for Approval, the Parties agree to work jointly to resolve any issues in order to secure the Superior Court's Approval.

14. Should the Superior Court decline to approve any material aspects of the Settlement, the Settlement will be null and void and the Parties will have no further obligations under it. In such event, the Parties shall be returned to their respective positions as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed.

15. Upon approval of the Settlement by the Superior Court, the Parties will present for the Superior Court's approval and entry a Proposed Final Order and Judgment.

16. After entry of the Judgment, the Superior Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Settlement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

17. **Aggrieved Employees Notice.** After the Superior Court enters its order granting Approval, every Aggrieved Employee will be provided with the Aggrieved Employees Notice (in English and Spanish) which will include the Aggrieved Employees Notice completed to reflect the order granting Approval of the Settlement and the Aggrieved Employee's information as follows:

(a) Within fourteen (14) calendar days after the Motion for Approval is granted, Defendant will provide to the Settlement Administrator the "Aggrieved Employees' Data," which shall consist of an electronic database containing each Aggrieved Employee's (i)

first and last name, (ii) last known mailing address, (ii) Social Security number or Tax ID, (iii) employee identification number, if applicable, and based on Defendant's payroll records, and (iv) total number of Individual Pay Periods. If any or all of the Aggrieved Employees' Data is unavailable to Defendant, Defendant will so inform Plaintiffs' Counsel prior to the date on which Defendant is required to submit the Aggrieved Employees' Data to the Settlement Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the Aggrieved Employees' Data prior to when it must be submitted to the Settlement Administrator. If the Parties are unable to agree, the dispute will be resolved by the Superior Court. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, as required to carry out the reasonable efforts to identify Aggrieved Employees' information as described in this Paragraph 17(a), pursuant to Defendant's express written authorization, or by order of the Superior Court.

(b) If an Aggrieved Employees Notice is returned by the U.S. Postal Service because of an incorrect address, the Settlement Administrator will promptly, and not later than five (5) days from receipt of the returned packet, search for a more current address for the Aggrieved Employee and re-mail the Aggrieved Employees Notice to the Aggrieved Employee. The Settlement Administrator will use the Aggrieved Employees' Data and otherwise work with Defense Counsel or utilize its own resources such as skip traces to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing address of any Aggrieved Employee for whom an Aggrieved Employees Notice is returned by the U.S. Postal Service. These reasonable steps shall include the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Aggrieved Employee for whom new addresses are found.

18. Waiver of Right to Appeal. Provided that the Judgment is consistent with the terms and conditions of this Settlement, Plaintiffs, Aggrieved Employees, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights

to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary writ, and the Judgment therefore will become non-appealable by them at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment, consistent with the terms of this Settlement, becomes Final.

19. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review. If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then either Party will have the right to void the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing court, and the Superior Court, not later than fourteen (14) days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes final. For the purposes of this paragraph, a "material change" is a change to the terms outlined in the accepted Memorandum of Understanding, a copy of which is attached hereto as Exhibit B. A vacation, reversal, or modification of the Superior Court's award of the Representative Enhancement Payment, the Plaintiff's Counsel Fees Payment, and/or Plaintiff's Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph.

20. Establishment of Settlement Account. The Settlement Administrator shall establish a Settlement Account within ten (10) days of the Effective Date and notify the Parties when the Settlement Account has been established. The Settlement Administrator shall also provide Corporate Defendant with an itemized statement for the total amount to be deposited into the Settlement Account, which shall equal the Gross Settlement Amount ("Settlement Account

Deposit"). Within fourteen (14) days after receiving notification of the Settlement Account and statement for the Settlement Account Deposit, Defendant shall pay into the Settlement Account an amount equal to the Settlement Account Deposit. Defendant shall have no obligation to pay any additional funds into the Settlement Account.

21. In the event Defendant fails to deposit the Settlement Account Deposit within fourteen (14) days after receiving notification of the Settlement Account and statement for the Settlement Account Deposit and the Parties have not agreed, in writing, to an extension of time, Plaintiff may pursue all available legal remedies against Defendant including without limitation, filing a breach of contract claim against it.

22. **Payment of Aggrieved Employees Payment Shares.** The Settlement Administrator shall pay to each Aggrieved Employee his or her Aggrieved Employees Payment Share from the Settlement Account. The Settlement Administrator shall pay each Aggrieved Employees Payment Share by sending a check in the appropriate amount to the Aggrieved Employee at the address indicated in the Aggrieved Employees' Data. Such payment, with the Aggrieved Employees Notice, shall be sent by the Settlement Administrator via U.S. Mail within fourteen (14) days of its receipt of the Settlement Account Deposit from Corporate Defendant.

23. **Uncashed Aggrieved Employees Payment Share Checks.** Any checks paid to Aggrieved Employees shall be negotiable for one hundred eighty (180) calendar days from the date of their issuance. An Aggrieved Employee must cash his or her Settlement Share check within one hundred eighty days (180) calendar days after it is mailed to him or her. If a check is returned to the Settlement Administrator as undeliverable during the one hundred eighty-day period, the Settlement Administrator shall take all reasonable efforts to identify the Aggrieved Employee's correct address, including the performance of a "skip-trace." If an updated address can be identified, the Settlement Administrator shall issue another check to the Aggrieved Employee and mail it to the Aggrieved Employee at his or her updated address. If an updated address for the Aggrieved Employee cannot be identified, if a reissued check is once again returned to the Settlement Administrator as undeliverable, or if the reissued check remains uncashed after one

hundred eighty (180) calendar days, the Settlement Administrator will keep an accounting of such funds and shall give notice to the Parties of the total balance of uncashed Aggrieved Employees Payment Shares. An Aggrieved Employee who fails to negotiate or receive their Aggrieved Employees Payment Share check despite the procedures described above shall nevertheless remain bound by the Settlement and the releases contained herein.

24. The funds represented by Aggrieved Employees Payment Share checks remaining uncashed for more than one hundred eighty (180) calendar days after issuance shall be voided and then shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure § 1500, *et seq.* in the names of those Aggrieved Employees who did not cash their checks until such time they claim their property. After the expiration of the 180-calendar day check cashing period, as outlined above, the Settlement Administrator shall begin the process of transferring the funds in accordance with California Code of Civil Procedure §§ 1500-1582 and the timing requirements set forth by the Office of the State Controller. The Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure Code § 384, as the entire Aggrieved Employees Payment will be paid out to Aggrieved Employees, whether or not they all cash their settlement checks.

25. **Final Reports by Settlement Administrator to Superior Court.** Within ten (10) calendar days after transmission of any remaining unclaimed funds to the Controller of the State of California, the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the transmission of any remaining unclaimed funds to the Controller of the State of California.

IV. SETTLEMENT TERMS AND CONDITIONS

26. **Aggrieved Employees Payment Shares.** Subject to the terms and conditions of this Settlement, the Settlement Administrator will calculate the Aggrieved Employees Payment Shares for each Aggrieved Employee within ten (10) calendar days after Corporate Defendant provides the Settlement Administrator with the Aggrieved Employees’ Data. The Aggrieved Employees Payment Share for each Aggrieved Employee will be calculated as follows,

understanding that the formulas below do not constitute an admission by either Party, and are intended only to provide a practical means to simplify and administer the claims process:

(a) **Number of Aggrieved Employees and Pay Periods.** Corporate Defendant shall determine the total number of Aggrieved Employees and the aggregate number of Pay Periods for those Aggrieved Employees as of the close of the Representative Period. This information shall be provided to the Settlement Administrator along with the Aggrieved Employees' Data as described in Paragraph 17(a) above.

(b) **Calculation of the Pay Period Value.** The Settlement Administrator shall determine the value of a Pay Period ("Pay Period Value") by taking the Aggrieved Employees Payment amount and dividing it by the sum of all Aggrieved Employees' Pay Periods.

(c) **Calculation of Aggrieved Employees Payment Shares.** The Settlement Administrator shall assign to each Aggrieved Employee an Aggrieved Employees Payment Share which shall be equal to the Pay Period Value multiplied by each Aggrieved Employee's Individual Pay Periods. Upon calculation of each Aggrieved Employee's share of the Aggrieved Employees Payment, the Settlement Administrator shall furnish to Plaintiffs' Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for the Aggrieved Employees with their corresponding Individual Pay Periods and Aggrieved Employees Payment Share.

27. **Taxes and Withholdings.** Each Aggrieved Employees Payment Share is intended to settle each Aggrieved Employee's claims for civil penalties. Accordingly, one hundred percent (100%) of each Aggrieved Employees Payment Share shall represent civil penalties. The Aggrieved Employees Payment Share shall be paid to the Aggrieved Employee in full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each Aggrieved Employee for that amount, unless the Aggrieved Employees Payment Share is \$600 or less. Each Aggrieved Employee shall be individually responsible for their own share of applicable income tax withholdings and deductions for his or her Aggrieved Employees Payment Share.

28. **Total Payment Amount.** In no event will the Corporate Defendant be required to

pay more than the Gross Settlement Amount for distribution to the Plaintiffs, Plaintiffs' Counsel, Aggrieved Employees, LWDA, Settlement Administrator, or for any other costs or expenses not otherwise enumerated.

29. **Payments to Plaintiffs and Plaintiffs' Counsel and Others.** Subject to the terms and conditions of this Settlement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount as follows:

(a) **To Plaintiff:** In addition to her Aggrieved Employees Payment Share, Plaintiff Ornelas will apply to the Superior Court for a Representative Enhancement Payment in an amount not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00). Defendant will not oppose this Representative Enhancement Payment. The Settlement Administrator will pay the Representative Enhancement Payment approved by the Superior Court out of the Gross Settlement Amount. Payroll tax withholding and deductions will not be taken from the Representative Enhancement Payment and an IRS Form 1099 will be issued to Plaintiff Ornelas for this payment.

(b) **To Plaintiffs' Counsel:** Plaintiffs' Counsel will apply to the Superior Court for the Plaintiffs' Counsel Fees Payment in an amount not to exceed one-third of the Gross Settlement Amount [currently estimated to be One Hundred and Eighty Thousand Dollars and Zero Cents (\$180,000.00), unless the Gross Settlement Amount is increased pursuant to Paragraph I.15 above, in which case the attorneys' fees estimate shall also increase]. Plaintiffs' Counsel will also request that the Superior Court approve Plaintiffs' Counsel Litigation Expenses Payment in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) as request reasonable costs of suit to be paid from the Gross Settlement Amount. Defendant will not oppose these requests. The Settlement Administrator will pay the amounts approved by the Superior Court out of the Gross Settlement Amount. Withholding and deductions will not be taken from the Plaintiffs' Counsel Fees Payment or Plaintiffs' Counsel Litigation Expenses Payment and one or more IRS Forms 1099 will be issued to Plaintiffs' Counsel with respect to those payments.

(c) **To the Settlement Administrator:** The Settlement Administrator will be paid from the Gross Settlement Amount its reasonable fees and expenses as approved by the

Superior Court, which are not to exceed Five Thousand Two Hundred Fifty Dollars and Zero Cents (\$5,250.00).

(d) **To the LWDA:** As part of their Motion for Approval, the Parties will jointly apply to the Superior Court for approval of the LWDA Payment in the estimated amount of Two Hundred Fifty-One Thousand Sixty-Two Dollars and Fifty Cents (\$251,062.50), which shall constitute the LWDA's seventy-five percent (75%) share of Three Hundred Thirty-Four Thousand Seven Hundred Fifty and No Cents (\$334,750.00) in civil penalties paid under this Settlement. The remaining Eighty-Three Thousand Six Hundred Eighty-Seven and Fifty Cents (\$83,687.50) in civil penalties shall be distributed on a *pro rata* basis based upon the number of pay periods worked by each Aggrieved Employee ("Aggrieved Employees Payment").

30. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court to appoint Phoenix Settlement Administrators, a qualified and experienced administrator based in California where the Action is venued, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include (i) calculating Aggrieved Employees Payment Shares; (ii) preparing, printing, and mailing the Aggrieved Employees Notice to all Aggrieved Employees; (iii) using reasonable measures to contact all Aggrieved Employees, including conducting a National Change of Address search on all Aggrieved Employees before mailing the Aggrieved Employees Notice to each Aggrieved Employee's address; (iv) re-mailing the Aggrieved Employees Notice to the Aggrieved Employee's new address for those Aggrieved Employees whose address had changed; (v) setting up a toll-free telephone number to receive calls from Aggrieved Employees; (vi) issuing the checks to effectuate the payments due under the Settlement; (vii) using reasonable measures to deliver issued checks to Aggrieved Employees, including use of a "skip-trace" for undeliverable checks; and (viii) otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to resolve all disputes concerning the calculation of an Aggrieved Employee's Aggrieved Employees Payment Share, subject to the terms set forth in this

Agreement. The Settlement Administrator's reasonable fees and expenses not to exceed Five Thousand Two Hundred Fifty and No Cents (\$5,250.00) and will be paid out of the Gross Settlement Amount, as set forth herein, subject to Court approval.

V. RELEASE OF CLAIMS

31. **Aggrieved Employees Released Claims.** As of the date of the Judgment and the full funding of the Settlement by Defendant (whichever is later), each Aggrieved Employee, and without the need to manually sign a release document, in exchange for the consideration recited in this Agreement, on behalf of himself or herself and on behalf of his/her current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, shall and does hereby fully and finally release Defendant and Defendant's parents, predecessors, including but not limited to Hyde & Hyde, successors, subsidiaries, affiliates, partners, owners, assigns, franchisors, and trusts, and all of its employees, officers, agents, attorneys, stockholders, fiduciaries, and other service providers including, but not limited to, O'Hagan Meyer (collectively hereinafter the "Released Parties"), from any and all claims, demands, rights, liabilities, and causes of action seeking civil penalties pursuant to the PAGA that were alleged or that could have been alleged based on the facts and legal theories contained in the operative complaint in the Action including claims for civil penalties based on unpaid regular wages, minimum wages, overtime wages, and incentive pay; failure to pay employees all minimum wages and overtime wages owed including by failing to pay all overtime and double time at the correct regular rate of pay; failure to provide compliant meal or rest periods; failure to pay them all premium wages owed for short, late or missed meal or rest periods; failure to pay all wages owed at discharge or resignation; failure to timely pay wages within the times permissible under Labor Code section 204; failure to provide complete and accurate wage statements; failure to keep complete and accurate payroll records; and violations of Labor Code Sections 200, 201, 202, 203, 204, 226(a), 226.3, 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*; claims that the Aggrieved Employee is an "aggrieved employee" under PAGA with respect to any of the aforementioned claims released herein; and claims for attorneys' fees, costs and expenses for all causes of action and claims that were alleged

in the Action or reasonably could have been alleged based on the facts and legal theories contained in the operative Complaint (the "PAGA Released Claims"). The foregoing release applies only to claims for civil penalties under the PAGA and is not intended to nor shall be construed as releasing any of the underlying, alleged Labor Code violations. Following the Effective Date and Defendant's funding the settlement, all Aggrieved Employees will release the Released Parties from the Aggrieved Employees Released Claims that accrued during the Representative Period. The Parties agree that there is no statutory right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from or object to the Settlement as no parallel actions are being prosecuted nor has anyone sought nor been permitted to intervene in this Action.

32. **Plaintiffs General Release of Claims.** As of the Effective Date, in exchange for the consideration set forth in this Agreement, Plaintiffs do hereby waive, release, acquit and forever discharge the Released Parties, from any and all claims, actions, charges, complaints, grievances and causes of action, of whatever nature, whether known or unknown, which exist or may exist on Plaintiffs' behalf as of the date of this Agreement, including, but not limited to, any and all tort claims, contract claims, wage claims, wrongful termination claims, retaliation claims, disability claims, benefit claims, public policy claims, retaliation claims, statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, *quantum meruit* claims, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance, including, but not limited to, tort claims, contract claims, violation the California Labor Code, the Wage Orders of California's Industrial Welfare Commission, the Americans with Disabilities Act, the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California Business & Professions Code Section 17200, *et seq.*, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance. This release by Plaintiffs is not intended to release any claims that cannot be waived or released as a matter of law, including specifically, without limitation, any claim under the

California workers' compensation statute.

33. **Plaintiffs Waiver of California Civil Code § 1542.** As of the Effective Date, in exchange for the consideration set forth in this Agreement, Plaintiffs also agree to expressly waive the provisions of California Civil Code § 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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.

Plaintiffs' general release and waiver of California Civil Code §1542 shall cover the time period from the start of their employment with Defendant up to the Court's granting approval of the Settlement or May 27, 2022, whichever is earlier.

34. **Plaintiffs' Counsel.** As of the date that the attorneys' fees and costs are disbursed, Plaintiffs' Counsel and any counsel associated with Plaintiffs' Counsel waive any further claims to costs and attorneys' fees and expenses against Defendant or the Released Parties arising from or related to the Action, including but not limited to claims based on the Labor Code, the Code of Civil Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions Code, or any other contract, statute or law ("Plaintiffs' Counsel Released Claims").

35. **No Effect on Other Benefits.** The payment of Aggrieved Employees Payment Shares will not result in any additional employee benefit payments (such as 401(k), vacation, or bonus) and shall not have any effect on the eligibility for, or calculation of, any employee benefit.

VI. MISCELLANEOUS TERMS

36. **No Admission of Liability.** Defendant denies that they have engaged in any unlawful activity, have failed to comply with the law in any respect, or have any liability to anyone under the claims asserted in the Action. This Settlement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Settlement is intended or will be construed

as an admission of liability or wrongdoing by Defendant, an admission by Plaintiffs that any of their claims were non-meritorious, or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiffs and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the Settlement).

37. Whether or not the Judgment becomes Final, neither the Settlement, any document, statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating this Settlement.

38. Notwithstanding Paragraph 36 of this Settlement, any and all provisions of this Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

39. **Integrated Agreement.** After this Settlement is signed and delivered by all Parties and their counsel, this Settlement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Settlement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Settlement and its exhibits.

40. **Attorney Authorization.** Plaintiffs' Counsel and Defense Counsel warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the

implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties will seek the assistance of mediator Steven J. Rottman, Esq., and if no resolution is reached the Superior Court, and in all cases all such documents, supplemental provisions and assistance of the court will be consistent with this Settlement.

41. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties, their successors-in-interest, and/or the Parties' respective counsel, as authorized.

42. **Settlement Binding on Successors.** This Settlement Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

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

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

45. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, current and potential.

46. **Enforcement Action.** In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, 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 action(s).

47. **Headings.** The descriptive heading of any section or paragraph of this Settlement is inserted for convenience of reference only and does not constitute a part of this Settlement.

48. **Notice.** All notices, demands or other communications given under this Settlement will be in writing and deemed to have been duly given as of the third business day after mailing by U.S. Mail, addressed as follows:

To Plaintiffs' Counsel:

Marcus J. Bradley
Bradley/Grombacher LLP
31365 Oak Crest Drive, Suite 240
Westlake Village, CA 91361

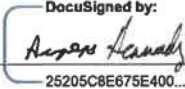
To Defense Counsel:

Matthew C. Sgnilek, Esq.
O'HAGAN MEYER
4695 MacArthur Court, Suite 210
Newport Beach, CA 92660

49. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures (including DocuSign) will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: 5/19/2022

AURORA HERNANDEZ ORNELAS

By:  25205C8E675E400...

DATED: 5/19/2022

PATRICIA MORALES VILLEGAS

By:  202D7278DE5F48D...

DATED: _____

LATITUDE 36 FOODS LLC

By: _____

Its: _____

49. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures (including DocuSign) will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

DATED: _____

AURORA HERNANDEZ ORNELAS

By: _____

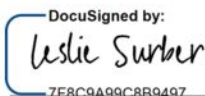
DATED: _____

PATRICIA MORALES VILLEGAS

By: _____

DATED: 5/20/2022

LATITUDE 36 FOODS LLC

By:  _____
7F8C9A99C8B9497...

Its: President

Approved as to form:

DATED: 5/19/20

**BRADLEY/GROMBACHER LLP
LAW OFFICES OF SAHAG MAJARIAN II**

By: 

Marcus J. Bradley, Esq.
Kiley Lynn Grombacher, Esq.
Lirit A. King, Esq.
Sahag Majarian II, Esq.

Attorney for Plaintiffs
AURORA HERNANDEZ ORNELAS and
PATRICIA MORALES VILLEGAS

DATED: _____

O'HAGAN MEYER

By: _____

Matthew C. Sgnilek, Esq.

Attorney for Defendant
LATITUDE 36 FOODS LLC

Approved as to form:

DATED: _____

**BRADLEY/GROMBACHER LLP
LAW OFFICES OF SAHAG MAJARIAN II**

By: _____
Marcus J. Bradley, Esq.
Kiley Lynn Grombacher, Esq.
Lirit A. King, Esq.
Sahag Majarian II, Esq.

Attorney for Plaintiffs
AURORA HERNANDEZ ORNELAS and
PATRICIA MORALES VILLEGAS

DATED: 5/16/2022

O'HAGAN MEYER

By:  _____
Matthew C. Sgnilek, Esq.

Attorney for Defendant
LATITUDE 36 FOODS LLC