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MIGUEL ALARCON,
on behalf of himself and all others similarly situated

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Attorneys for Defendant
CT COMMODITIES, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF TULARE

MIGUEL ALARCON, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

CT COMMODITIES, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: VCU288012

Honorable David C. Mathias
Department 01

**STIPULATION AND AGREEMENT FOR
CLASS ACTION SETTLEMENT**

Complaint Filed: July 26, 2021
First Amended Complaint Filed: Oct. 24, 2022
Trial Date: None Set

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D. “Class List” means the list of names, last known residential addresses,

1 employee ID numbers, and social security numbers or tax ID numbers of each Class
2 Member for whom Defendant possesses such information. The Class List will also contain
3 the start and end dates of each Class Member in a Class Position, and whether the Class
4 Member is a current or former employee, in order for the Settlement Administrator to
5 calculate the accurate number of workweeks to be credited to each Class Member.

6 **E. "Class," "Class Member(s)," "Settlement Class," or "Settlement Class**
7 **Member(s)"** means all persons currently or formerly employed by CT Commodities as
8 non-exempt employees in the State of California at any time from January 29, 2017 to
9 August 27, 2022. The Class includes employees paid on an hourly basis or a piece-rate
10 basis.

11 **F. "Class Member Payment"** means each Participating Class Member's
12 payment under this Settlement for being a Participating Class Member.

13 **G. "Class Notice"** means a notice entitled "Notice of Class Action Settlement,"
14 in the form substantially similar to that attached hereto as Exhibit A.

15 **H. "Class Period"** means January 29, 2017, through and including August 27,
16 2022.

17 **I. "Class Position"** means any non-exempt position in California during the
18 Class Period.

19 **J. "Complaint"** means the first amended complaint filed by Plaintiff on
20 October 24, 2022.

21 **K. "Court"** means the Tulare County Superior Court.

22 **L. "Covered Claims" and "Released Claims"** means all claims, causes of
23 action, and forms of relief which are asserted in the Complaint or that could have been
24 asserted based on the facts alleged in the Complaint, including claims for inaccurate
25 itemized wage statements, failure to separately compensate rest period time, failure to
26 provide meal periods, failure to pay meal period premiums, failure to pay all wages due
27 upon separation from employment, unreimbursed expenses, claims for violation of the
28 California Labor Code (including §§ 201-203, 204, 218, 226(a), 226.2, 226.7, 512(a),

1 1174(d), 1194(a), and 2802 thereof), and claims for violation of all similar provisions or
2 requirements of California law (including the provisions of the California Code of
3 Regulations, the California Industrial Welfare Commission Wage Orders, the General
4 Minimum Wage Order, and Business & Professions Code §§ 17200 et seq.), which the
5 Class and/or any Class Member has ever had, or hereafter may claim to have, for the Class
6 Period.

7 **M. "Defendant" or "CT Commodities"** means CT Commodities, Inc., a
8 California corporation.

9 **N. "Effective Settlement Date"** means the later of the following: (a) if no one
10 objects to the Settlement, then the Effective Settlement Date shall be the date the Court
11 files the Order Granting Final Approval and Judgment; (b) if someone objects to the
12 Settlement, then all of Defendant's obligations under this Agreement shall be stayed until
13 the time for seeking an appeal from, review of, or writ relating to the Judgment has passed
14 (i.e., 60 days from the Order Granting Final Approval and Judgment), which date shall
15 then be the Effective Settlement Date if no appeal, review or writ is sought; or (c) if an
16 appeal, review or writ from the Judgment is sought, the Effective Settlement Date shall be
17 the day the Judgment is affirmed or the appeal, review or writ is dismissed or denied, and
18 the Judgment is no longer subject to further appellate challenges or procedures.

19 **O. "Enhancement" or "Service Award"** means the portion of the Gross
20 Settlement Amount awarded by the Court and paid to the Class Representative for his
21 service in connection with being the Class Representative and his general release of
22 claims.

23 **P. "Final Fairness Hearing"** means a hearing set by the Court, pursuant to
24 class action procedures and requirements, for the purpose of determining the fairness,
25 adequacy, and reasonableness of this Settlement.

26 **Q. "Gross Settlement Amount," "Gross Settlement Fund," or "Common**
27 **Fund"** means the amount of Two Hundred Fifty Thousand Dollars and Zero Cents
28 (\$250,000.00). The Gross Settlement Amount is an all-inclusive amount, including

1 Individual Settlement Payments to all Participating Class Members and PAGA Group
2 Members, any Enhancement to the Class Representative as awarded by the Court,
3 Settlement Administrator Costs as approved by the Court, attorneys' fees and costs to
4 Class Counsel related to the Class Action as awarded by the Court, and the PAGA
5 Payment (defined below) as approved by the Court. Defendant's share of employer
6 payroll taxes on such sums paid out as wages under this Settlement Agreement (e.g.,
7 FICA, FUTA, SUTA, SDI, ETT, etc.) shall not be paid out of and deducted from the Gross
8 Settlement Amount, but rather shall be separately funded by Defendant up to \$10,000.00.
9 If Defendant's share of employer payroll taxes on the sums paid out as wages under this
10 Settlement exceeds \$10,000.00, the amount in excess of \$10,000.00 shall be taken from the
11 Gross Settlement Amount. No portion of the Gross Settlement Amount will be retained
12 by, or revert to, Defendant. The Gross Settlement Amount is subject to increase pursuant
13 to Paragraph 24 of this Agreement.

14 **R. "Individual Settlement Payment(s)"** means the amount payable from the
15 Settlement to Settlement Class Members under the terms of this Settlement. A Settlement
16 Class Member who is both a Participating Class Member and a PAGA Group Member is
17 entitled to receive both payment for being a Participating Class Member and a PAGA
18 Penalty Payment. A Settlement Class Member who is only a Participating Class Member
19 but not a PAGA Group Member is only entitled to receive a payment for being a
20 Participating Class Member. Individual Settlement Payments shall not count as earnings
21 or compensation with respect to any benefit plans (e.g., 401(k) plan, retirement plan, etc.)
22 available to Defendant's employees.

23 **S. "Net Settlement Amount," "NSA," or "Net Common Fund"** means the
24 Gross Settlement Amount less any Enhancement to the Class Representative as awarded
25 by the Court, Settlement Administrator Costs as approved by the Court, attorneys' fees and
26 costs to Class Counsel related to the Class Action as awarded by the Court, and the PAGA
27 Payment.

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1 **T. “Notice Packet”** means a mailing from the Settlement Administrator to
2 Class Members which contains the Class Notice, the Notice of Estimated Individual
3 Settlement Payment, and the Exclusion Request Form.

4 **U. “Notice of Class Action” and “Class Notice”** means a notice entitled
5 “Notice of Class Action Settlement,” in the form substantially similar to that attached
6 hereto as Exhibit A.

7 **V. “Notice of Estimated Individual Settlement Payment”** means a notice
8 entitled “Notice of Estimated Individual Settlement Payment,” in the form substantially
9 similar to that attached hereto as Exhibit B.

10 **W. “Objection/Exclusion Deadline” or “Response Deadline”** is sixty (60)
11 calendar days after the date the Notice Packet is first mailed by the Settlement
12 Administrator to the Class Member. In the event that a Notice Packet is re-mailed to a
13 Class Member because the first one was undeliverable, the Class Member shall have an
14 additional fifteen (15) calendar days beyond the Response Deadline to submit a valid
15 Exclusion Request Form, Objection, or dispute concerning their weeks worked.

16 **X. “Objection” or “Objection to Settlement”** means a document sent by a
17 Class Member to the Settlement Administrator which contains the Class Member’s name
18 and the basis for their objection to the Settlement.

19 **Y. “Order Granting Final Approval”** means an order executed and filed by
20 the Court granting final approval to the Settlement and entering judgment thereon. Said
21 Order Granting Final Approval will be in the form substantially similar to that attached
22 hereto as Exhibit E.

23 **Z. “Order Granting Preliminary Approval”** means an order executed and
24 filed by the Court granting preliminary approval to the Settlement. Said Order Granting
25 Preliminary Approval will be in the form substantially similar to that attached hereto as
26 Exhibit D.

27 **AA. “PAGA Claims”** means any civil penalties under the Private Attorneys
28 General Act of 2004 arising from the Covered Claims during the PAGA Period.

1 **BB. "PAGA Group" and "PAGA Group Members"** means all Settlement Class
2 Members who worked as a non-exempt employee of CT Commodities in California at any
3 time during the PAGA Period.

4 **CC. "PAGA Payment"** means the portion of the Gross Settlement Amount,
5 totaling Fifteen Thousand Dollars and Zero Cents (\$15,000.00), which will be paid
6 pursuant to the provisions of California's Private Attorneys General Act of 2004
7 ("PAGA"). Seventy-five percent (75%) of the PAGA Payment, or \$11,250.00, will be
8 paid to the California Labor & Workforce Development Agency ("LWDA"). Twenty-five
9 percent (25%) of the PAGA Payment, or \$3,750.00, will be distributed to the PAGA
10 Group Members.

11 **DD. "PAGA Penalty Payment"** means each PAGA Group Member's payment
12 under this Settlement for being a member of the PAGA Group. All PAGA Penalty
13 Payments shall be allocated entirely to penalties.

14 **EE. "PAGA Period"** means the period from November 3, 2019 through and
15 including August 27, 2022.

16 **FF. "Participating Class Member"** means any Class Member who does not
17 timely submit a Request for Exclusion.

18 **GG. "Preliminary Approval Date"** means the date on which the Court signs the
19 Order Granting Preliminary Approval.

20 **HH. "Released Parties"** means Defendant, its affiliates, parents and subsidiaries
21 and its predecessors, successors, assigns, owners, shareholders, members, officers,
22 directors, agents, and attorneys.

23 **II. "Request for Exclusion" or "Exclusion Request Form"** means a Class
24 Member's timely completed Request for Exclusion form, in the form substantially similar
25 to that attached hereto as "Exhibit C."

26 **JJ. "Settlement Administrator"** means ILYM Group, Inc.

27 **KK. "Settlement Administrator Costs"** means the costs of the Settlement
28 Administrator to administer this Settlement, currently estimated at \$8,500.00.

SETTLEMENT AMOUNT

2. Settlement Chart.

The following settlement chart is intended solely for the convenience of the Court:

<u>Settlement Fund Allocation</u>	
Gross Settlement Amount	\$250,000
Net Settlement Amount (Class Member Payments) (Estimated)	\$112,000
Service Award To Class Representative (As Awarded By The Court)	\$12,000
Attorneys' Fees And Costs (As Awarded By The Court)	\$87,500 (Attorneys' Fees) \$15,000 (Costs)
Estimated Settlement Administrator Costs (As Awarded by the Court)	\$8,500
PAGA Payment (As Awarded by the Court)	\$15,000 (75% To The LWDA, 25% To PAGA Group Members)

3. Resolution of Class Action.

Subject to the terms and conditions set forth in this Agreement and approval of the Court, this Settlement shall resolve and settle the Class Action. Upon the occurrence of the Effective Settlement Date, and after all conditions precedent have occurred as set forth in this Agreement, the Settlement Administrator will cause to be made all disbursements required by this Settlement Agreement in accordance with its terms.

4. The Gross Settlement Amount.

On a non-reversionary-basis, Defendant has agreed to pay Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) as the Gross Settlement Amount. As long as the workweeks count is determined to be within the parameters stated in Paragraph 24 of this Agreement, the amount paid by Defendant under this Agreement shall not exceed this amount. In no event shall any part of the Gross Settlement Amount revert to Defendant. This Settlement is a cash settlement. This Settlement is not a claims-made

1 Settlement.

2 **5. Net Settlement Amount (Amounts Paid To Participating Class Members).**

3 A. The Net Settlement Amount will be approximately One Hundred Twelve
4 Thousand Dollars And Zero Cents (\$112,000.00).

5 B. Class Member Payments will be paid from the Net Settlement Amount to
6 Participating Class Members *pro rata* based on the number of workweeks credited to the
7 Participating Class Member during the Class Period in relation to the number of
8 workweeks credited to all Participating Class Members during the Class Period.

9 C. Example: If Participating Class Member A is credited with 100 workweeks,
10 and all Participating Class Members are credited with a combined total of 100,000
11 workweeks, then Participating Class Member A's Individual Settlement Payment would be
12 calculated as follows:

- 13 i. $100 \text{ weeks worked for Participating Class Member A} \div 100,000 \text{ total}$
14 $\text{weeks worked for all Participating Class Members} = .001 \text{ (or .1\%)}$.
15 ii. Participating Class Member A is entitled to a gross Class Member
16 ~~Payment that is .1% of the Net Settlement Amount, or~~ $(.001 \times$
17 $\$112,000) = \$112 \text{ [gross amount]}$. This gross amount is subject to
18 deduction for employee taxes on the portion of the Class Member
19 Payment paid out as wages.

20 D. The Class Member Payment for each Participating Class Member reflects
21 negotiated amounts for alleged wage statement violations, uncompensated rest periods,
22 meal period violations, waiting time and other statutory penalties, and all other claims as
23 described more fully above as Released Claims.

24 E. For purposes of calculating Class Member Payments, each Participating
25 Class Member will be credited with the total workweeks worked by the individual Class
26 Member in a Class Position during the Class Period, as determined by their start and end
27 dates in a Class Position during the Class Period. Defendant's records shall be
28 presumptively correct for determining the number of weeks worked for each Participating

1 Class Member in a Class Position during the Class Period.

2 F. Any Participating Class Member whose employment was terminated
3 voluntarily or involuntarily at any time during the Class Period shall be credited with one
4 (1) additional workweek as consideration for the release of alleged California Labor Code
5 section 203 waiting time penalties.

6 G. The Settlement Administrator will issue to each Participating Class Member
7 a Class Member Payment. Each Class Member Payment will be allocated one-fourth (1/4)
8 to wages (reported by the Settlement Administrator on a Form W-2) and three-fourths
9 (3/4) to interest and penalties (reported by the Settlement Administrator on a Form 1099).

10 H. Class Member Payment checks will be void after 180 days from the date of
11 issuance. This Settlement is a non-reversionary cash settlement. Thus, any
12 unclaimed/uncashed Class Member Payment checks will not revert back to Defendant, but
13 instead will escheat to the State of California, Unclaimed Property Division, in the name of
14 the corresponding Class Member.

15 **6. PAGA Payment (Amounts Paid To The LWDA And PAGA Group Members).**

16 A. The PAGA Payment is \$15,000, and 75% of that amount (\$11,250) will be
17 paid to the LWDA. The remaining 25% (\$3,750) will be distributed to the PAGA Group
18 Members as provided for in this Settlement.

19 B. If a Settlement Class Member is a PAGA Group Member, the Settlement
20 Class Member shall be entitled to receive a PAGA Penalty Payment. Each PAGA Group
21 Member's PAGA Penalty Payment shall be calculated by dividing their weeks worked
22 during the PAGA Period by the weeks worked by the entire PAGA Group during the
23 PAGA Period. That amount will then be multiplied by \$3,750. Only weeks worked as a
24 non-exempt employee during the PAGA Period will be counted.

25 C. If a PAGA Group Member opted out of the Settlement and is not a
26 Participating Class Member, the PAGA Group Member shall still receive his/her PAGA
27 Penalty Payment calculated as provided above. If a PAGA Group Member is a
28 Participating Class Member, the PAGA Group Member is entitled to both their PAGA

1 Penalty Payment and the Class Member Payment as calculated above.

2 D. Any PAGA Group Member whose employment was terminated voluntarily
3 or involuntarily at any time during the PAGA Period shall be credited with one (1)
4 additional workweek as consideration for the release of PAGA civil penalties arising from
5 the alleged violation of California Labor Code section 203.

6 E. The Settlement Administrator will issue to each PAGA Group Member a
7 PAGA Penalty Payment. Each PAGA Penalty Payment will be allocated entirely to
8 penalties (reported by the Settlement Administrator on a Form 1099).

9 F. PAGA Penalty Payment checks will be void after 180 days from the date of
10 issuance. Any unclaimed/uncashed PAGA Penalty Payment checks will not revert back to
11 Defendant, but instead will escheat to the State of California, Unclaimed Property
12 Division, in the name of the corresponding PAGA Group Member.

13 G. If the Court requires an increase in the PAGA Payment as a condition
14 precent to Settlement approval, any increase required shall come from the Gross
15 Settlement Amount.

16 **7. Service Award To The Class Representative.**

17 A. Through the Motion for Final Approval, Class Counsel will request an award
18 of individual Enhancement -- also referred to as a Service Award -- to the Class
19 Representative in the amount of \$12,000. The Enhancement is to compensate the Class
20 Representative for his service and risk in connection with being Class Representative and
21 for his general release of claims.

22 B. Any Enhancement awarded by the Court will not be treated as wages. The
23 Class Representative will receive an individual Form 1099 relating to such payment. The
24 Enhancement will not count as earnings or compensation for purposes of any benefit plans
25 (e.g., 401(k) plan, retirement plan, etc.) sponsored by Defendant.

26 C. Defendant and its counsel will not object to a request for approval of such
27 Enhancement, provided the requested Enhancement does not exceed \$12,000. Any portion
28 of the Enhancement not approved by the Court will be included in the Net Settlement

1 Amount and distributed to Participating Class Members.

2 D. The Enhancement is in addition to the Individual Settlement Payment
3 allocated to the Class Representative under this Settlement. The Class Representative
4 agrees that he will not opt out of, or object to, the Settlement.

5 E. By operation of the Order Granting Final Approval, the Class Representative
6 will be deemed to have generally released all claims against the Released Parties, including
7 any and all obligations, debts, claims, liabilities, demands, and causes of action of every
8 kind, nature and description whatsoever, known or unknown, suspected or claimed, which
9 he ever had, now has, or may hereafter acquire, from the beginning of time until the
10 moment the Court files its Order Granting Preliminary Approval. This general release
11 includes a Civil Code § 1542 waiver.

12 **8. Class Counsels' Attorneys' Fees and Costs.**

13 A. Through the Motion for Final Approval, Class Counsel will request an award
14 of thirty five percent (35%) of the Gross Settlement Amount, totaling Eighty Seven
15 Thousand Five Hundred Dollars and Zero Cents (\$87,500.00), for attorneys' fees, and an
16 amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for costs. If
17 the Gross Settlement Amount is increased pursuant to Paragraph 24 of this Agreement,
18 Class Counsel will request an award of attorneys' fees of thirty five percent (35%) of the
19 total Gross Settlement Amount as so increased.

20 B. Defendant and its counsel will not object to Class Counsels' application for
21 an award of attorneys' fees and costs. Any attorneys' fees/costs amount not approved by
22 the Court will be included in the Net Settlement Amount and distributed to Participating
23 Class Members.

24 **9. Costs of Settlement Administration.**

25 The Settlement Administrator Costs are estimated at \$8,500 and will be paid from
26 the Gross Settlement Amount. The Net Settlement Amount payable to the Class Members
27 will increase or decrease by any amounts less or more than \$8,500 should the actual
28 Settlement Administrator Costs total less or more than \$8,500.

1 **RELEASE BY SETTLEMENT CLASS MEMBERS**

2 **10. Terms of Release.**

3 In exchange for the consideration recited in this Settlement Agreement, and by
4 operation of the Order Granting Final Approval, all Participating Class Members fully,
5 finally, and forever release the Released Parties from the Released Claims for the Class
6 Period.

7 In exchange for the consideration recited in this Settlement Agreement, and by
8 operation of the Order Granting Final Approval, all PAGA Group Members fully, finally,
9 and forever release the Released Parties from the PAGA Claims for the PAGA Period.

10 **11. California Labor Code Section 206.5.**

11 With respect to the Released Claims, and in consideration of Defendant's payment
12 of the sums provided herein, each and every Participating Class Member will be deemed to
13 have also acknowledged and agreed that California Labor Code section 206.5 is not
14 applicable to the Parties hereto or any Participating Class Member because there is a good
15 faith dispute as to whether any wages are due to any Participating Class Member. Section
16 206.5 provides, in pertinent part, as follows: "An employer shall not require the execution
17 of a release of a claim or right on account of wages due, or to become due, or made as an
18 advance on wages to be earned, unless payment of those wages has been made."

19 **CONDITIONAL CLASS CERTIFICATION**

20 **12. Certification for Settlement Purposes Only.**

21 A. As part of this Agreement and for purposes of settlement only, the Parties
22 stipulate and agree that the Court may certify the Class for the Class Period.

23 B. Should, for whatever reason, the Settlement not become final, the fact that
24 the Parties stipulate and agree to class certification as part of the Settlement will have no
25 bearing on, and will not be admissible in connection with, the issue of whether a class
26 should be certified in a non-settlement context in this action, and will have no bearing on,
27 and will not be admissible in connection with, the issue of whether a class should be
28 certified in any other lawsuit. Defendant expressly reserves its right to oppose class

1 certification should this Settlement not become final.

2 **13. Parties' Contentions.**

3 In entering into this Agreement, Defendant denies any liability or wrongdoing of
4 any kind associated with the claims alleged in the Class Action, and further denies that the
5 Class Action can be maintained as a class or representative action in a litigation context.
6 Defendant contends, among other things, that it has complied with the California Labor
7 Code, the applicable IWC Wage Orders, and the California Business and Professions
8 Code.

9 In entering into this Agreement, Plaintiff believes that he has brought a meritorious
10 action, that class certification is appropriate, and that the claims can be maintained on a
11 representative basis under PAGA.

12 **14. Settlement is Fair, Reasonable, and Adequate.**

13 Plaintiff and his counsel are of the opinion that the terms set forth in this Agreement
14 are fair, reasonable, and adequate and this Agreement is in the best interest of the Class in
15 light of all known facts and circumstances, including the risk of significant delay, defenses
16 ~~asserted by Defendant, numerous potential appellate issues, and Defendant's financial~~
17 status. Defendant and its counsel also agree that this Agreement is fair and in the best
18 interests of the Class.

19 **SETTLEMENT APPROVAL AND PAYMENT PROCEDURES**

20 **15. Request for Preliminary and Final Approval.**

21 The Parties will cooperate fully in requesting preliminary and final approval of this
22 Settlement Agreement by the Court, including a determination by the Court that this
23 Settlement is fair, reasonable, and adequate. The Parties will also cooperate fully in
24 promptly requesting that, as provided for in this Settlement Agreement, the Court approve
25 the proposed forms of notices, orders, and other documents necessary to implement this
26 Settlement. Should the Court require or suggest edits to any documents in the Notice
27 Packet, the proposed Order Granting Preliminary Approval, or the proposed Order
28 Granting Final Approval, the Parties will work cooperatively to edit the document(s)

1 accordingly and obtain the Court's approval.

2 **16. Class List to Be Provided by Defendant to the Settlement Administrator.**

3 A. Defendant will provide the Class List to the Settlement Administrator within
4 fifteen (15) calendar days after the Court files its signed Order Granting Preliminary
5 Approval.

6 B. The Class List, and any other data provided by Defendant to the Settlement
7 Administrator, shall be treated as confidential and shall not be used by the Settlement
8 Administrator for any purpose other than as permitted by this Agreement. Further, the
9 Settlement Administrator shall use commercially reasonable efforts to secure the data
10 provided by Defendant at all times so as to avoid inadvertent or unauthorized disclosure or
11 use of such data other than as permitted by this Agreement. At no time during the
12 Settlement process will any Class Member's address or full social security number be filed
13 with the Court, except under seal as may be ordered by the Court. The Settlement
14 Administrator shall ensure that the Class Notice and any other communications to Class
15 Members shall not include the Class Members' social security number, except for the last
16 four digits. ~~Class Members may, however, be required to submit a Form W-4 or W-9 as~~
17 required by the Settlement Administrator for tax reporting purposes.

18 **17. Notice of Class Action Settlement.**

19 A. Within seven (7) calendar days after the Settlement Administrator receives
20 the Class List from Defendant, the Settlement Administrator will first update all addresses
21 using the National Change of Address System (NCOA) and then mail to all Class
22 Members, via first-class United States Mail, the following documents: (a) the Notice of
23 Class Action, Exhibit A; (b) the Notice of Estimated Individual Settlement Payment,
24 Exhibit B; and (c) the Exclusion Request Form, Exhibit C (collectively, the "Notice
25 Packet"). The envelope in which the Notice Packet is mailed will clearly state that it
26 concerns a class action and the recipient could be entitled to a cash payment.

27 B. In the event of returned or non-deliverable Notice Packets, the Settlement
28 Administrator will make reasonable efforts to locate Class Members through skip-tracing

1 services offered by publicly-available databases and will re-send the Notice Packets to the
2 best available address after performing the skip-tracing. It will be conclusively presumed
3 that a Class Member's Notice Packet was received if the Notice Packet has not been
4 returned within forty-five (45) days of the mailing of the Notice Packet to the Class
5 Member.

6 C. In the event the procedures set forth herein are followed and the intended
7 recipient of a Notice Packet still does not receive the Notice Packet, the intended recipient
8 will be a Participating Class Member and will be bound by all terms of this Settlement and
9 the Order Granting Final Approval entered by the Court.

10 D. Each Class Member will have sixty (60) calendar days from the date the
11 Notice Packet is originally mailed to submit a dispute, opt-out, and/or object to the
12 Settlement. This date is called the "Objection/Exclusion Deadline" or "Response
13 Deadline." In the event that a Notice Packet is re-mailed to a Class Member because the
14 first one was undeliverable, the Class Member shall have an additional fifteen (15)
15 calendar days beyond the Response Deadline to submit a valid dispute, opt-out, and/or
16 object to the Settlement. The procedures regarding disputes, opting out, and objecting to
17 the Settlement are set forth below.

18 **18. Dispute Procedures -- Resolution Regarding Weeks of Employment.**

19 A. Each Class Member will receive a Notice of Estimated Individual Settlement
20 Payment, Exhibit B, which will specify the weeks worked for that Class Member for which
21 he or she is being credited for purposes of this Settlement as well as the Class Member's
22 employment status (current or former employee).

23 B. Class Members will be entitled to dispute their number of weeks worked
24 and/or their employment status as reported on their Notice of Estimated Individual
25 Settlement Payment. A space will be provided on the Notice of Estimated Individual
26 Settlement Payment for Class Members to raise such disputes. For a Class Member's
27 dispute to be considered, the Class Member must fully complete the Notice of Estimated
28 Individual Settlement Payment and timely return it to the Settlement Administrator. To

1 fully complete the Notice of Estimated Individual Settlement Payment, the Class Member
2 must: (a) specify their dates of employment, their claimed number of weeks worked, job
3 position, and work location in the space provided; (b) print their name; and (c) date and
4 sign it.

5 C. Class Members will have no more than sixty (60) days after the date when
6 the Notice Packet was originally mailed by the Settlement Administrator to mail to the
7 Settlement Administrator a dispute concerning their weeks worked and/or employment
8 status during the Class Period, with any supporting evidence the Class Member may have.
9 The date of the postmark on the return mailing envelope shall be the exclusive means used
10 to determine whether a dispute has been timely submitted to the Settlement Administrator.

11 D. Within seven (7) calendar days of receiving a dispute concerning a Class
12 Member's weeks worked and/or employment status, the Settlement Administrator shall
13 review all information and documents (if any) received from the Class Member in support
14 of the Class Member's dispute, and within seven (7) calendar days of receiving that
15 information the Settlement Administrator shall inform Class Counsel and Defendant's
16 ~~counsel of its decision as to whether it accepts or rejects the dispute. Class Counsel and~~
17 Defendant's counsel stipulate to timely and effectively cooperate to resolve any
18 disagreements regarding disputed weeks worked or the Settlement Administrator's
19 inquiries. In the event Class Counsel and Defendant's counsel are not able to reach
20 agreement regarding a dispute, either party may request that the Court make a final
21 decision.

22 E. Within seven (7) calendar days of the Settlement Administrator's decision,
23 the Settlement Administrator will provide a written explanation entitled "Notice Regarding
24 Disputed Weeks Worked" to the Class Member who disputed his or her weeks worked
25 and/or employment status. The Notice Regarding Disputed weeks worked will inform the
26 Class Member of any change to his or her weeks worked. The Class Member shall have
27 seven (7) calendar days after the date the Notice Regarding Disputed Weeks Worked is
28 postmarked to complete and mail an Exclusion Request Form to the Settlement

1 Administrator (pursuant to the opt-out steps set forth below). If, within that seven (7) day
2 time period, the Class Member does not mail a valid Exclusion Request Form to the
3 Settlement Administrator, the Class Member shall be deemed a Participating Class
4 Member and will be paid in accordance with the Class Member's weeks worked as noted
5 on the Notice Regarding Disputed Weeks Worked.

6 F. Upon resolution by Defendant's counsel and Class Counsel of all disputes
7 regarding weeks worked, the Settlement Administrator will prepare an updated Class List.
8 Any changes to a Class Member's weeks worked will be reflected in the total weeks
9 worked for the entire Class on the updated Class List. For example, if Class Member A
10 successfully disputes his weeks worked and his weeks worked is consequently increased
11 by two weeks, the total weeks worked for the entire Class will also be increased by two
12 weeks for purposes of calculating Individual Settlement Payments.

13 **19. Opt-Out Procedures -- Requests for Exclusion.**

14 A. The Class Notice will notify all Class Members of their right to opt out of the
15 Settlement.

16 ~~B. Any Class Member (other than the Class Representative) who wishes to be~~
17 excluded (*i.e.*, to opt out) from the Settlement must submit a completed Exclusion Request
18 Form to the Settlement Administrator on or before the Objection/Exclusion Deadline. To
19 be valid, the Exclusion Request Form must: (a) reference the name and address of the
20 person requesting exclusion; (b) be dated and signed by the person requesting exclusion;
21 and (c) be postmarked no later than the Objection/Exclusion Deadline. The date of the
22 postmark on the return mailing envelope shall be the exclusive means used to determine
23 whether an Exclusion Request Form has been timely submitted.

24 C. Any Class Member who mails a valid and timely Exclusion Request Form
25 will, upon receipt thereof by the Settlement Administrator, no longer be a Participating
26 Class Member, he/she will receive no Class Member Payment, and none of his or her
27 individual claims, causes of action or rights will be released by virtue of this Settlement
28 Agreement. However, if a Class Member who mails a valid and timely Exclusion Request

1 Form is also a PAGA Group Member, the Class Member will still receive his or her PAGA
2 Penalty Payment and still fully release the PAGA Claims by operation of the Court's Order
3 Granting Final Approval.

4 D. Any Class Member Payment that would have been paid to a Class Member
5 but for that Class Member opting out of the Settlement will be included in the Net
6 Settlement Amount and distributed to the Participating Class Members.

7 E. Failure to timely submit a completed Exclusion Request Form will result in a
8 Class Member being conclusively deemed a Participating Class Member fully bound by
9 the terms of the Settlement.

10 F. If a Class Member submits a timely dispute concerning his or her weeks
11 worked and/or employment status as reflected on his or her Notice of Estimated Individual
12 Settlement Payment and submits a timely Exclusion Request Form, the Exclusion Request
13 Form will be invalid (unless postmarked later than the date the Class Member submits his
14 or her dispute on the Notice of Estimated Individual Settlement Payment) and such Class
15 Member will be considered a Participating Class Member.

16 **20. Objection Procedures -- Objections to the Settlement.**

17 A. The Class Notice will provide that Class Members who wish to object to the
18 Settlement must mail to the Settlement Administrator a written Objection.

19 B. To be valid, such Objection must be mailed to the Settlement Administrator
20 no later than the Response Deadline. To be valid, the Objection must include the Class
21 Member's name, the basis for their objection to the Settlement, and their signature. The
22 date of the postmark on the return mailing envelope shall be the exclusive means used to
23 determine whether an Objection has been timely submitted. The Settlement Administrator
24 will promptly forward by e-mail any such Objection to the Parties' respective counsel.
25 Class Counsel will lodge a copy of the Objections, if any, with the Court. Unless
26 otherwise allowed by the Court in its discretion, no Class Member will be entitled to be
27 heard at the Final Fairness Hearing (whether individually or through separate counsel) or
28 to object to the Settlement, and no written objection or briefs submitted by any Class

1 Member will be received or considered by the Court at the Final Fairness Hearing unless,
2 no later than the Response Deadline, the Class Member mails to the Settlement
3 Administrator an Objection as set forth above. Unless otherwise ordered by the Court in
4 its discretion, any Class Member who fails to timely mail an Objection to the Settlement
5 Administrator will be deemed to have waived any objection and will be foreclosed from
6 making any objection (whether by appeal or otherwise) to the Settlement.

7 **21. Verification of Dissemination of Notice of Class Action.**

8 The Settlement Administrator will verify, in writing, that the Notice Packets have
9 been disseminated in accordance with the Court's Order Granting Preliminary Approval,
10 and will provide such verification to Class Counsel and Defendant's counsel no later than
11 twenty (20) calendar days prior to the date of the Final Fairness Hearing. The Settlement
12 Administrator will provide that verification in the form of a declaration, which shall also
13 include, as an attachment, any timely Objections received by the Settlement Administrator.

14 **22. Reporting.**

15 The Settlement Administrator will provide written notice to Class Counsel and
16 Defendant's counsel of all disputes concerning weeks worked, Requests for Exclusion, and
17 Objections it receives, within three (3) calendar days of receiving such items.

18 **23. No Encouraging Class Members Not To Participate.**

19 No Party will directly or indirectly, through any person or entity, encourage any
20 Class Member not to participate in this Settlement.

21 **24. Verification Of Weeks Worked.**

22 A. Defendant has represented that between January 29, 2017 and June 27, 2022,
23 the Class worked approximately 12,376 workweeks. If the actual workweeks during this
24 timeframe exceed 12,376 by more than 10%, the Gross Settlement Amount will be
25 increased by proportionally by the workweeks in excess of 10%. For example, if the
26 actual workweeks during this timeframe exceed 12,376 by 12%, the Gross Settlement
27 Amount will be increased by 2%.

28 B. Actual weeks worked by the Class between January 29, 2017 and June 27,

1 2022 shall be determined by the Settlement Administrator within seven (7) days after
2 receiving the Class List, and said calculation of workweeks will be deemed determinative.

3 **25. Final Fairness Hearing.**

4 On the date set forth in the Notice of Class Action (or as continued by the Court in
5 its discretion), a Final Fairness Hearing will be held before the Court in order to: (1)
6 review this Settlement Agreement and determine whether the Court should give it final
7 approval; and (2) consider any timely objections to the Settlement and all responses by the
8 Parties to such objections. At the Final Fairness Hearing, the Parties will ask the Court to
9 approve the Settlement Agreement and to enter judgment accordingly.

10 **26. Listing of Individual Settlement Amounts.**

11 Within seven (7) calendar days after the Court files the Order Granting Final
12 Approval, the Settlement Administrator will provide to Class Counsel and Defendant's
13 counsel a proceeds list showing the Individual Settlement Payment for each Participating
14 Class Member/PAGA Group Member, identified by the applicable employee or other
15 identification number, who will receive settlement proceeds ("Proceeds List"). The
16 ~~Proceeds List will include a calculation of all employer payroll taxes and obligations,~~
17 which shall be separately funded by Defendant.

18 **27. Funding Date.**

19 Within sixty-five (65) calendar days of the Effective Settlement Date (the "Funding
20 Date"), Defendant shall cause to be paid to the Settlement Administrator (i) the Gross
21 Settlement Amount (inclusive of any increase required by Paragraph 24), and (ii) the
22 employer's tax burdens associated with the portion of the Individual Settlement Payments
23 paid out as wages, which shall be calculated by the Settlement Administrator. In no event
24 shall the funding occur before February 4, 2023.

25 **28. Payment Date.**

26 Within fourteen (14) calendar days of the Funding Date, the Settlement
27 Administrator will cause to be paid: (i) the Individual Settlement Payments, (ii) the
28 Enhancement awarded by the Court; (iii) the attorneys' fees and costs awarded by the

1 Court, (iv) the LWDA's portion of the PAGA Payment, and (v) the Settlement
2 Administrator Costs awarded by the Court

3 **29. Individual Settlement Payment – Check Cashing/Endorsing Deadlines.**

4 A. The checks for all Individual Settlement Payments will indicate on their face
5 that they are void if not negotiated within one hundred and eighty (180) days of their
6 issuance. In the event a settlement check is returned to the Settlement Administrator with
7 a forwarding address, the settlement check will be forwarded to the forwarding address. In
8 the event a settlement check is returned to the Settlement Administrator without a
9 forwarding address or is otherwise undeliverable, the Settlement Administrator will use
10 reasonable efforts to search for a better address and re-mail the returned check, if possible.
11 If the search does not provide a better address, or if the settlement check is ultimately
12 returned without a forwarding address, neither Defendant, Class Counsel nor the
13 Settlement Administrator shall be required to take further action to achieve delivery of the
14 check to the Class Member. If within that 180-day period the Class Member contacts the
15 Settlement Administrator, or if Class Counsel does so on his or her behalf, the settlement
16 ~~check will be reissued and mailed to the address the Class Member (or Class Counsel)~~
17 provides. Any such reissued settlement checks will indicate on their face that they are void
18 if not negotiated within one hundred and eighty (180) days of their issuance.

19 B. Any monies not able to be delivered to a Class Member after one address
20 follow-up on returned mail and any uncashed Individual Settlement Payments remaining
21 after the check-cashing period expires will escheat to the State of California, Unclaimed
22 Property Division, in the name of the corresponding Class Member.

23 **30. Deadlines.**

24 If any deadline specified in this Agreement falls on a Saturday, Sunday, or State
25 Court holiday, the deadline will be automatically extended to the next regular business
26 day. Unless otherwise specified herein, all references to "days" shall mean calendar days.

27 ///

28 ///

1 **CONTINUING JURISDICTION OF THE COURT**

2 **31. Continuing Jurisdiction.**

3 Pursuant to California Rules of Court, Rules 3.769 and 3.771, this Settlement
4 Agreement will be subject to approval by the Court and will be enforceable by the Court
5 pursuant to California Code of Civil Procedure section 664.6. Even after the Order
6 Granting Final Approval and notwithstanding it, the Court will have and retain continuing
7 jurisdiction over the Class Action and over all Parties, Participating Class Members and
8 PAGA Group Members, to the fullest extent necessary or convenient to enforce and
9 effectuate the terms and intent of this Settlement Agreement and all matters provided for in
10 it, and to interpret it.

11 **MUTUAL COOPERATION**

12 **32. Cooperation Obligations.**

13 The Parties will fully cooperate with each other to accomplish the terms of this
14 Settlement Agreement, including, but not limited to, providing additional evidence,
15 executing additional documents, and/or taking such other action as may be reasonably
16 necessary to obtain the Court's approval of the Settlement or implement it. Defendant and
17 its counsel will provide cooperation to the Class Representative and his counsel in the
18 event the Court requires additional information and/or documentation before preliminary
19 or final approval is granted.

20 **NON-ADMISSION SETTLEMENT**

21 **33. No Admissions.**

22 Nothing in this Settlement Agreement will constitute or be considered an admission
23 by or on behalf of Defendant, or any of the Released Parties, of any wrongdoing or liability
24 or of the accuracy of any allegation made in connection with this Class Action.

25 **WITHDRAWAL, NULLIFICATION OR INVALIDATION**

26 **34. Withdrawal.**

27 A. If prior to the Final Fairness Hearing, persons who otherwise would be
28 members of the Class have filed timely requests to opt out as outlined herein, and if such

1 persons in the aggregate amount to a number greater than ten percent (10%) of the total
2 number of Class Members, Defendant shall have thirty (30) days thereafter to cancel this
3 Settlement by mailing written notice to Class Counsel, John M. Scheppach and Thorey M.
4 Bauer of Scheppach Bauer PC, 23181 Verdugo Drive Suite 105-A, Laguna Hills CA
5 92653. To be effective, Defendant must provide said written notice at least thirty (30)
6 calendar days prior to the date set for the Final Fairness Hearing.

7 B. In the event Defendant elects to withdraw pursuant to Paragraph 34(A),
8 Defendant will not be responsible for paying any settlement amounts, Enhancement,
9 attorneys' fees or costs. Defendant, however, will be solely responsible for the Settlement
10 Administrator Costs incurred as of the date of withdrawal. In the event Defendant elects to
11 withdraw pursuant to Paragraph 34(A), this Settlement Agreement will be considered null
12 and void and neither this Settlement Agreement nor any of the related negotiations or
13 proceedings will be of any force or effect and shall be inadmissible in any forum or
14 jurisdiction

15 C. Defendant and its counsel agree that they will not encourage opt outs or
16 communicate negatively about the Settlement to Class Members. A breach of this
17 obligation, as determined by the Court, will negate any right Defendant has to withdraw
18 under Paragraph 34(A).

19 **35. Nullification.**

20 If, after exhausting all efforts: (1) the Court refuses to enter an Order Granting
21 Final Approval or (2) the Court's Order Granting Final Approval is reversed and the Court
22 thereafter refuses to enter an Order Granting Final Approval, then: (a) this Settlement
23 Agreement will be considered null and void; (b) neither this Settlement Agreement nor any
24 of the related negotiations or proceedings will be of any force or effect; and (c) Defendant
25 and Class Counsel shall each be responsible for half of any Settlement Administrator
26 Costs.

27 **36. Invalidation.**

28 Invalidation of any material term of this Settlement Agreement will invalidate this

1 Agreement in its entirety unless the Parties subsequently agree in writing that the
2 remaining provisions will remain in full force and effect. Before declaring any provision of
3 this Agreement invalid, however, the Court shall first attempt to construe the provision in a
4 valid manner to the fullest extent possible consistent with applicable precedents.

5 **37. Appeal from Order of Final Judgment and Order of Dismissal.**

6 In the event of a timely appeal from the Order Granting Final Approval, the Order
7 Granting Final Approval will be stayed and the Individual Settlement Payments and any
8 other payments required hereunder by Defendant will not be paid pending the completion
9 and final resolution of the appeal, and any payment thereafter will: (1) occur only if the
10 Order Granting Final Approval is upheld after all appeals; and (2) be in a manner that is
11 provided for in this Settlement Agreement and in the Order Granting Final Approval.

12 **GENERAL PROVISIONS**

13 **38. Entire Agreement.**

14 This Settlement Agreement constitutes the entire integrated agreement between the
15 Parties relating to the resolution of the Class Action, and no oral representations,
16 warranties or inducements have been made to any Party concerning this Settlement
17 Agreement other than the representations, warranties, and covenants contained and
18 memorialized in this Settlement Agreement. This Settlement Agreement supersedes and
19 replaces any prior memorandum of understanding entered into by the Parties.

20 **39. Authorization to Act.**

21 Class Counsel warrant and represent that they are authorized by the Class
22 Representative, and counsel of record for Defendant warrants that they are authorized by
23 Defendant, to take all appropriate action required or permitted to be taken by such Parties
24 pursuant to this Settlement Agreement to effectuate its terms, and to execute any other
25 documents required to effectuate the terms of this Settlement Agreement.

26 **40. Modification Only in Writing.**

27 This Settlement Agreement may be amended or modified only by a written
28 instrument signed by all Parties or their successors in interest. However, Class Counsel

1 and Defendant's counsel may agree to, and are hereby authorized to, amend or modify the
2 contents of the Notice Packet, the Proposed Order Granting Preliminary Approval (Exhibit
3 D), and the Proposed Order Granting Final Approval (Exhibit E), to conform to any edits
4 requested or recommended by the Court without further signatures of the Parties.

5 **41. Binding on Successors.**

6 This Settlement Agreement is binding upon and will inure to the benefit of the
7 Parties to this Agreement, as well as their respective attorneys, past, present, and future
8 predecessors, successors, shareholders, officers, directors, employees, agents, trustees,
9 representatives, administrators, fiduciaries, assigns, insurers, executors, partners, parent
10 corporations, subsidiaries, and related or affiliated entities.

11 **42. No Prior Assignments.**

12 The Participating Class Members will be deemed by operation of the Order
13 Granting Final Approval to represent, covenant, and warrant that they have not assigned,
14 transferred, encumbered, or purported to assign, transfer, or encumber to any person or
15 entity any portion of any liability, claim, demand, cause of action or rights herein released
16 and discharged.

17 **43. Governing Law.**

18 All terms of this Settlement Agreement will be governed by and interpreted
19 according to the laws of the State of California, without giving effect to conflicts of laws
20 principles.

21 **44. Counterparts.**

22 This Settlement Agreement may be executed in one or more counterparts.
23 Signatures provided electronically (such as via DocuSign and/or Adobe Sign), by pdf or by
24 facsimile shall have the same force and effect as original "wet" signatures. All executed
25 counterparts and each of them will be deemed to be one and the same instrument. Counsel
26 for the Parties will exchange among themselves signed counterparts.

27 **45. Headings for Convenience Only.**

28 The descriptive headings of any paragraphs or sections of this Settlement

1 Agreement are inserted for convenience of reference only and do not constitute a part of
2 this Settlement Agreement.

3 **46. Construction of this Agreement.**

4 The Parties hereto agree that the terms and conditions of this Settlement Agreement
5 are the result of arms-length negotiations between the Parties and that this Settlement
6 Agreement will not be construed in favor of or against any Party by reason of the extent to
7 which any Party, or his or its counsel, participated in the drafting of this Agreement.
8 Except as expressly provided herein, this Settlement Agreement has not been executed in
9 reliance upon any other oral or written representations or terms and no such extrinsic oral
10 or written representations or terms will modify, vary or contradict the terms of this
11 Settlement Agreement. In entering this Settlement Agreement, the Parties hereto explicitly
12 recognize California Civil Code section 1625 and California Code of Civil Procedure
13 section 1856(a), which provide that a written agreement is to be construed according to its
14 terms and may not be varied or contradicted by extrinsic evidence. The Class
15 Representative and Defendant participated in the negotiation and drafting of this
16 Settlement Agreement and had available to them the advice and assistance of independent
17 counsel. As such, neither the Class Representative, nor any Participating Class Members,
18 nor Defendant may claim that any ambiguity in this Settlement Agreement should be
19 construed against the other.

20 **47. Corporate Signatories.**

21 Any person executing this Settlement Agreement or any related document on behalf
22 of a corporate signatory hereby warrants and promises for the benefit of all Parties hereto
23 that such person has been duly authorized by such corporation to execute this Settlement
24 Agreement or any related document.

25 **48. Representation by Counsel.**

26 All of the Parties hereto acknowledge that they have been represented by counsel
27 throughout all negotiations which preceded the execution of this Settlement Agreement
28 and that this Agreement has been executed with the advice of counsel.

1 **49. Attorneys' Fees and Costs.**

2 Except as otherwise provided herein, the Parties hereto will bear responsibility for
3 their own attorneys' fees and costs, taxable or otherwise, incurred by them or arising out of
4 or related to this Class Action and this Settlement, and will not seek reimbursement thereof
5 from any Party to this Settlement Agreement. Plaintiff and his counsel covenant not to
6 pursue claims for attorneys' fees and costs, or any class representative Enhancement, for
7 dollar amounts above those stated or provided for in this Agreement.

8 **50. Miscellaneous.**

9 A. The Parties both acknowledge and agree that nothing in this Agreement, nor
10 in any written communication or disclosure between or among them or their Counsel, is or
11 was intended to be, nor shall any such communication or disclosure constitute or be
12 construed or be relied upon as, tax advice within the meaning of United States Treasury
13 Circular 230 (31 CFR part 10, as amended).

14 B. Defendant agrees to refrain from removing, or seeking removal of, the Class
15 Action to federal court.

16 ~~C. Neither the Class Representative nor Class Counsel may disclose this~~
17 Settlement or the Parties' Settlement terms to any outside third party (except to a
18 settlement administrator) in any manner until the date of the filing of the Motion for
19 Preliminary Approval. Thereafter and continuing, unless otherwise required by law, the
20 Class Representative and Class Counsel may not publicize this Settlement or the Parties'
21 Settlement terms on any website, on any blog, twitter account or other social media
22 platform, or to any periodical or legal publication, including the *Los Angeles Daily*
23 *Journal*.

24 **IT IS SO STIPULATED AND AGREED:**

25 **PLAINTIFF**

26
27 Dated: _____

28 MIGUEL ALARCON

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22 platform, or to any periodical or legal publication, including the *Los Angeles Daily*
23 *Journal*.

24 **IT IS SO STIPULATED AND AGREED:**

25 **PLAINTIFF**

26 

27 Dated: Jan 6, 2023

Miguel Alarcon (Jan 6, 2023 21:57 PST)

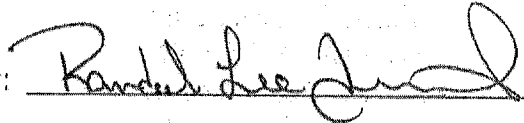
28 **MIGUEL ALARCON**

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DEFENDANT

Dated: 2-7-2023

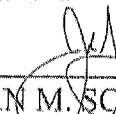
CT COMMODITIES, INC.

By: 
Its: _____

APPROVED AS TO FORM:

Dated: January 9, 2023

SCHEPPACH BAUER PC

By: 
JOHN M. SCHEPPACH
Attorneys for Plaintiff
MIGUEL ALARCON,
on behalf of himself and
all others similarly situated

Dated: 2/8/23

LAW OFFICES OF BRUNN & FLYNN

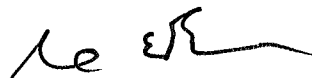
By: 
GERALD BRUNN
MICHAEL DONOVAN
Attorneys for Defendant
CT COMMODITIES, INC.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TULARE

MIGUEL ALARCON, individually, and on behalf of
other members of the general public similarly situated
and on behalf of other aggrieved employees pursuant
to the California Private Attorneys General Act,

Plaintiff,

v.

CT COMMODITIES, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendant.

CASE NO. VCU288012

ASSIGNED FOR ALL PURPOSES TO:
HON. DAVID C. MATHIAS
DEPT 01

NOTICE OF CLASS ACTION SETTLEMENT

If You Worked At CT Commodities In California As A Non-Exempt Employee At Any Time
From January 29, 2017 Through August 27, 2022

You May Be Entitled To Participate In A Class Action Settlement.

The Tulare County Superior Court approved this notice. This is not an advertisement.

You are not being sued. Your legal rights are affected whether you act or not.

PLEASE READ THIS NOTICE. YOUR LEGAL RIGHTS WILL BE AFFECTED.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT ARE:	
Do Nothing	If you want to participate and receive your share of the money from the settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will be releasing certain claims. (See #19 below.)
Object	If you want to object to the settlement, you must write to the Settlement Administrator and explain why you think the settlement should not be approved. (See #16 below.)
Exclude Yourself	If you exclude yourself (or "opt-out") from this lawsuit, you will not receive any Class Member Payment and will not release any individual claims. (See #17 below.)

YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE
THEM ARE EXPLAINED IN THIS NOTICE

Notice of Class Action Settlement
Questions? Call [toll free number to ILYM Group, Inc.]

BASIC INFORMATION

1. Why did I get this notice?

The records of CT Commodities, Inc. ("CT Commodities") show that you work, or used to work, at CT Commodities in California as a non-exempt employee. You are receiving this notice because you may be a member of a class on whose behalf a class action lawsuit has been brought. The lawsuit is known as *Miguel Alarcon v. CT Commodities, Inc.*, assigned Tulare County Case Number VCU288012 (the "Class Action"). This notice explains the nature of the Class Action, the proposed settlement of the Class Action, and your legal rights to participate in, object to, or opt out of the settlement. Please read this notice carefully as your rights will be affected even if you do nothing.

2. What is a class action?

In a class action, an individual called a "Class Representative" (in this case, Miguel Alarcon) act as Plaintiff and sue on their own behalf and attempt to sue on behalf of other people who could possibly have similar claims. The court must make a determination whether the Plaintiff's case can move forward as a class action depending on various legal criteria. It does not always permit a case to proceed as a class action. If, however, a court determines that Plaintiff's case can proceed as a class action, the people together become a "Class," with each person being a "Class Member." At that point, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves (*i.e.*, opt out) from the Class.

THE CLAIMS IN THE CLASS ACTION

3. Who is in the Class?

The Court has conditionally certified a settlement class comprised of: all persons currently or formerly employed by CT Commodities as non-exempt employees in the State of California at any time from January 29, 2017 to August 27, 2022. These individuals are called "Class Members." The Class Period is January 29, 2017 to August 27, 2022.

4. What is the Class Action about?

The Class Action is alleged against CT Commodities (the "Defendant"). The Class Action primarily alleges that the Class was not provided accurate itemized wage statements; was not provided separate compensation for rest periods, was not provided meal periods in accordance with the California Labor Code and Wage Orders; was not reimbursed for their work-related expenses; and was not paid all wages due upon separation from employment, as required by California law. The lawsuit also alleges that these actions constituted unfair business practices under California law and lead to civil penalties under the Private Attorneys General Act of 2004 ("PAGA").

5. What is Defendant's response to the Class Action?

Defendant denies all allegations raised in the Class Action, assert that the case should not proceed as a class action, and assert that they did not violate the law and have no liability for any of the Class Members' claims.

6. Has the Court decided who is right?

No. The Court has not decided whether Plaintiff or Defendant is correct. The Court also has not made a determination that the Plaintiff's case can proceed as a class action. The Court, however, has conditionally certified a settlement Class for the purposes of resolving this lawsuit without further litigation, without any admission of liability or fault, and without any determination of which side is right. By establishing the Class and issuing this notice, the Court is not suggesting that either side will win or lose this case.

Notice of Class Action Settlement
Questions? Call [toll free number to ILYM Group, Inc.]

SUMMARY OF THE SETTLEMENT

7. Why is there a settlement?

Both sides have conducted detailed investigations and an analysis of the facts and applicable law. Plaintiff believes that the claims asserted in the lawsuit have merit; Defendant strongly disputes that contention. This case involves many unresolved factual and legal issues, and the outcome is uncertain. Substantial amounts of time, energy, and other resources have been devoted by both parties and, unless there is a settlement, that situation will continue. By agreeing to a settlement, the parties avoid the costs, risks, and uncertainty of trial and/or any appeals, and the Class Members will receive a financial payment.

8. What does the settlement provide?

Without admitting any wrongdoing, Defendant has agreed to pay \$250,000 (the "Gross Settlement Amount") to resolve the Class Action. All payments under the Settlement will be disbursed from the Gross Settlement Amount, including the following:

- Payments to the Participating Class Members in the total gross estimated amount of \$112,000 (the "Net Common Fund"). These are called "Class Member Payments."
- Payments to the PAGA Group Members in the total amount of \$3,750. These are called the "PAGA Penalty Payments."
- Fees of the third party Settlement Administrator to administer the Settlement, estimated at \$8,500.
- A Service Award payment to the Class Representative, not to exceed \$12,000.
- Plaintiff's Counsels' attorneys' fees of up to 35% of the Gross Settlement Amount.
- Plaintiff's Counsels' costs in connection with the Class Action, up to \$15,000.
- Payment to the California Labor & Workforce Development Agency in the amount of \$11,250.

Any amount not awarded by the Court in Settlement Administrator fees, a Service Award payment, attorneys' fees or costs will be added to the Net Common Fund. Any uncashed Class Member Payments and any uncashed PAGA Penalty Payments will escheat to the State of California, Unclaimed Property Division, in the name of the corresponding Class Member(s). Please note that, while the Court has preliminarily approved of this Class Action Settlement, this Settlement is still subject to final approval by the Court.

9. Who is a Participating Class Member? | Who is a PAGA Group Member

A Class Member who does not request to be excluded from the settlement is a "Participating Class Member" and will receive a portion of the Net Common Fund. This means that if you take no action, you will be a Participating Class Member. All Participating Class Members are entitled to receive their Class Member Payment.

A "PAGA Group Member" is a Class Member who worked as a non-exempt employee of CT Commodities in California at any time from November 3, 2019 through August 27, 2022 (the "PAGA Period"). If you are a PAGA Group Member, even if you request to be excluded from the Settlement, you will still be entitled to receive your PAGA Penalty Payment.

10. How will Participating Class Members Be Paid? | How Will A PAGA Group Member Be Paid?

For Participating Class Members, each Participating Class Member will receive a pro-rata share of the Net Common Fund based on the number of weeks worked credited to that Participating Class Member as a ratio of the total number of weeks worked credited to all Participating Class Members. If a Class Member opts out of the Settlement, his or her Class Member Payment will be redistributed and paid out to the other Participating Class Members.

For PAGA Group Members, each PAGA Group Member will receive a pro-rata share of \$3,750 based on the number of weeks worked by that PAGA Group Member during the PAGA Period as a ratio of the total number of weeks worked credited to all PAGA Group Members during the PAGA Period.

The total amount of settlement money payable to a Class Member under the Settlement is called an "Individual Settlement Payment." If you are both a Participating Class Member and a PAGA Group Member, your Individual Settlement Payment will include both a Class Member Payment and a PAGA Penalty Payment. Individual Settlement Payments will be issued after the Court grants final approval to the Settlement.

11. How much is my Individual Settlement Payment?

Your anticipated approximate Individual Settlement Payment is listed on the Notice of Estimated Individual Settlement Payment, which you are receiving with this Notice. The exact amount of the Individual Settlement Payment could vary, up or down, depending upon various factors, including among others (1) whether any Class Members dispute the number of weeks credited to them; and (2) whether any additions or deletions are made to the number of Class Members. One-quarter of your Class Member Payment will be treated as W-2 wages. Three-quarters of your Class Member Payment will be paid on a 1099 basis for interest and penalties. Your PAGA Penalty Payment will be treated as 100% penalties and paid on a 1099 basis.

You are entitled to dispute the number of weeks worked that is reported on the enclosed Notice of Estimated Individual Settlement Payment. To submit a valid dispute, you must: (1) complete Section B on the enclosed Notice of Estimated Individual Settlement Payment; (2) provide your name, the date and your signature on the Notice of Estimated Individual Settlement Payment in the spaces specified; and (3) mail the Notice of Estimated Individual Settlement Payment to the Settlement Administrator so that it is **postmarked no later than** _____, 20___. Any dispute that is postmarked later than _____, 20__, will be late and invalid and will result in the Class Member being bound by the work weeks and employment status stated in his or her Notice of Estimated Individual Settlement Payment.

12. How will Class Member weeks worked be calculated?

A Class Member will be given credit only for the period of time that the Class Member was employed at CT Commodities as a non-exempt employee during the Class Period. A Class Member's weeks worked will be rounded up or down to the nearest hundredth decimal place.

13. How much will the Class Representative be paid?

Subject to Court approval, Plaintiff Miguel Alarcon will be paid \$12,000 for his service as Class Representative and for his general release of all known and unknown claims. He will also receive his Individual Settlement Payment.

14. How will the attorneys for the Class be paid?

The attorneys for the Class Representatives and the Class Members will be paid from the Gross Settlement Amount. The attorneys will ask the Court for up to an estimated maximum of \$_____ (35% of the Gross Settlement Amount) for their fees, and \$15,000 for their costs. The actual amounts will be determined by the Court.

YOUR RIGHTS AND OPTIONS

15. OPTION #1: DO NOTHING AND BE MAILED A PAYMENT.

BY TAKING NO FURTHER ACTION, YOU WILL AUTOMATICALLY BE CONSIDERED A PARTICIPATING CLASS MEMBER AND WILL BE MAILED AN INDIVIDUAL SETTLEMENT

Notice of Class Action Settlement
Questions? Call [toll free number to ILYM Group, Inc.]

PAYMENT BY THE SETTLEMENT ADMINISTRATOR TO YOUR LAST KNOWN HOME ADDRESS. YOU ALSO WILL BE RELEASING THE CLAIMS DESCRIBED IN SECTION 19 BELOW.

To ensure receipt of your Individual Settlement Payment, you must notify the Settlement Administrator of any changes to your mailing address by calling the 1-800 number in the footer and/or at the end of this Notice.

16. OPTION #2: REMAIN A CLASS MEMBER AND OBJECT TO THE SETTLEMENT.

If you wish to remain a Class Member, but you object to the proposed Settlement (or any of its terms) and want the Court to consider your objection at the Final Fairness Hearing, you must mail a written objection to the Settlement Administrator. (No attorneys' fees will be paid by Defendant for your counsel's appearance at the Final Fairness Hearing.) To be valid, your objection must be in writing, contain your name, state the basis for your objection, be signed by you, and be mailed to the Settlement Administrator so that it is **postmarked no later than** _____, 20____. The address of the Settlement Administrator appears in Section 23 of this notice. Unless the Court allows otherwise in its discretion, any Class Member who does not mail his/her objection to the Settlement Administrator within the time provided above will be precluded from making any objections to the Settlement in writing or in person.

17. OPTION #3: EXCLUDE YOURSELF FROM THE CLASS.

If you exclude yourself from the Class -- which is sometimes called "opting out" of the Class -- you will not get any Class Member Payment from the settlement. You will not be permitted to object to the settlement, but you will retain the right to bring your own individual claims against Defendant.

You may request exclusion by submitting the enclosed Exclusion Request Form to the Settlement Administrator. To be valid, your Exclusion Request Form must contain your name and address, be dated and signed by you, and be mailed to the Settlement Administrator so that it is **postmarked no later than** _____, 20____. Any Exclusion Request Form that it is postmarked later than _____, 20____, will be late and invalid, and it will result in the Class Member being bound to the terms of the Settlement.

Please note that if you are a PAGA Group Member and you submit a request for exclusion, you will still release the PAGA Claims discussed below, and you will still be entitled to receive your PAGA Penalty Payment. A PAGA Group Member cannot exclude themselves from the settlement of the PAGA Claims. The PAGA Claims are not individual claims, but rather government claims.

18. Will my decision whether to participate in the Settlement affect my employment with Defendant?

No. Defendant is prohibited by law from retaliating against any employee for participating in this Settlement.

19. What claims will be released by the Settlement?

When the Court grants final approval of this Settlement, all Class Members who did not timely submit a valid Exclusion Request Form will be deemed to have fully, finally, and forever released the "Released Parties" from all claims, causes of action, and forms of relief which are asserted in the Complaint or that could have been asserted based on the facts alleged in the Complaint, including claims for inaccurate itemized wage statements, failure to separately compensate rest period time, failure to provide meal periods, failure to pay meal period premiums, failure to pay all wages due upon separation from employment, unreimbursed expenses, claims for violation of the California Labor Code (including §§ 201-203, 204, 218, 226(a), 226.2, 226.7, 512(a), 1174(d), 1194(a), and 2802 thereof), and claims for violation of all similar provisions or requirements of California law (including the provisions of the California Code of Regulations, the California Industrial Welfare Commission Wage Orders, the General Minimum Wage Order, and Business & Professions Code §§ 17200 et seq.), which the Class and/or any Class

Member has ever had, or hereafter may claim to have, for the Class Period. These claims are referred to as the "Covered Claims."

The "Complaint" means the First Amended Complaint filed in the Class Action on October 24, 2022. The "Released Parties" means Defendant, its affiliates, parents and subsidiaries and its predecessors, successors, assigns, owners, shareholders, members, officers, directors, agents, and attorneys.

When the Court grants final approval of this Settlement, all PAGA Group Members will be deemed to have fully, finally, and forever released the Released Parties from any civil penalties under PAGA arising from the Covered Claims during the PAGA Period. These claims are referred to as the "PAGA Claims."

20. What will happen at the Final Fairness Hearing?

A Final Fairness Hearing will be held on _____, at _____ in Department 01 of the Tulare County Superior Court, located at the County Civic Center, 221 S. Mooney Blvd., Visalia, CA 93291. The Court will determine: (i) whether the lawsuit should be finally certified as a class action solely and exclusively for settlement purposes; (ii) whether the settlement should be given the Court's final approval as fair, reasonable, adequate, and in the best interests of the Class Members; (iii) the amount of the attorneys' fees and costs awarded to Class Counsel; (iv) the amount of administrator fees awarded to the Settlement Administrator; and (v) the amount awarded to Plaintiff for his class representative services.

At the Final Fairness Hearing, the Court will hear all properly-submitted objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. Please note that the Court may continue the Final Fairness Hearing to a later date without notice to the Class. For updated information, including any changes in the date of the Final Fairness Hearing, please contact the Settlement Administrator.

21. Should I get my own lawyer in this case?

The Court has approved John M. Scheppach and Thorey M. Bauer of Scheppach Bauer PC, and Edwin Aiwazian of Lawyers for Justice, and as Class Counsel.

Class Counsel represents you and all Class Members in the Class Action. You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

GETTING MORE INFORMATION

22. Who are the attorneys representing the parties?

Attorneys For Plaintiff And The Class Members Are:

SCHEPPACH BAUER PC

John M. Scheppach, Esq.
Thorey M. Bauer, Esq.
23181 Verdugo Drive, Suite 105-A
Laguna Hills, CA 92653
Tel: (949) 209-8880 | Fax: (949) 358-7884

LAWYERS FOR JUSTICE, P.C.

Edwin Aiwazian
410 West Arden Avenue, Suite 203
Glendale, CA 91203
Tel: (818) 265-1020 | Fax (818) 265-1021

Attorneys For Defendant Are:

LAW OFFICES OF BRUNN & FLYNN

Gerald Brunn, Esq.
Michael Donovan, Esq.
928 12th Street, Suite 200
Modesto, CA 95354
Tel: (209) 521-2133 | Fax: (209) 521-7584

*Attorneys for Defendant cannot speak with Class Members regarding the settlement without prior consent from Class Counsel.

Notice of Class Action Settlement
Questions? Call [toll free number to ILYM Group, Inc.]

23. Who is the Settlement administrator?

The Settlement Administrator is ILYM Group, Inc. The Settlement Administrator can be contacted at:

Alarcon v. CT Commodities, Inc.
c/o ILYM Group, Inc.

24. How can I get more information?

If you would like more information or have questions, you may:

- Contact the attorneys for Plaintiff and the Class Members (see contact information listed above).
- Contact the Settlement Administrator (see contact information listed above).
- Visit the website of Tulare County Superior Court (www.tulare.courts.ca.gov), and click on the "Case Information" box. Once there, you will need to register your email. After registering and logging in, click "Search" on the heading ribbon, then click the box "Search Cases." It will take you to a new page. Insert the case number (VCU288012) in the corresponding box and click "Search".

PLEASE DO NOT CONTACT THE COURT, DEFENDANT, OR DEFENDANT'S ATTORNEYS ABOUT THIS NOTICE.

EXHIBIT B

NOTICE OF ESTIMATED INDIVIDUAL SETTLEMENT PAYMENT
SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF TULARE

MIGUEL ALARCON, individually, and on behalf of
other members of the general public similarly situated
and on behalf of other aggrieved employees pursuant
to the California Private Attorneys General Act,

Plaintiff,

v.

CT COMMODITIES, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendant.

CASE NO. VCU288012

ASSIGNED FOR ALL PURPOSES TO:

HON. DAVID C. MATHIAS

DEPT 01

**NOTICE OF ESTIMATED INDIVIDUAL
SETTLEMENT PAYMENT**

TO CLASS MEMBER <NAME>:

A. YOUR WEEKS WORKED AND ESTIMATED SETTLEMENT AMOUNT.

You have received this Notice because you are a Class Member in this Class Action. You are a Class Member if, at any time from January 29, 2017 through August 27, 2022 (the "Class Period") you worked at CT Commodities in California as a non-exempt employee. All Class Members who do not submit a timely and valid Request For Exclusion from the Settlement will be paid a pro rata share of the Net Common Fund established for this Settlement. In addition, all PAGA Group Members (defined in the Class Notice) are entitled to receive a pro rata share of \$3,750.

Under the terms of the Settlement, you are entitled to receive a settlement payment in the approximate estimated amount of <\$ _____>, minus all applicable employee tax deductions, after the Court approves the Settlement. Your Individual Settlement Payment reflected on this Notice is only an estimate. The exact amount of your settlement payment could vary, up or down.

Your Individual Settlement Payment is based on the number of weeks you were employed at CT Commodities in a Class Position during the Class Period. The weeks credited to you under the Settlement were calculated by dividing the total number of calendar days that you were employed in a Class Position during the Class Period by seven (7). That calculation was rounded to the nearest hundredth decimal place. If your employment was terminated (voluntarily or involuntarily) during the Class Period, the weeks credited amount below includes one (1) additional week as consideration for statutory penalties under Labor Code section 203. Likewise, if you are a PAGA Group Member and your employment terminated (voluntarily or involuntarily) during the PAGA Period, the weeks credited amount below includes one (1) additional week as consideration for civil penalties arising under Labor Code section 203. The "PAGA Period" is November 3, 2019 to August 27, 2022.

The total weeks worked credited to you under the Settlement do not include any period of time that you may have worked in a position other than a Class Position. A "Class Position" is any non-exempt position at CT Commodities in California during the Class Period.

Based on information available to Defendant, you have been credited with <# of WEEKS> weeks worked in a Class Position for purposes of calculating your Individual Settlement Payment, and as of August 27, 2022 you [are/were] a [current/former] employee.

B. IF YOU DISPUTE YOUR WEEKS WORKED OR EMPLOYMENT STATUS STATED ABOVE.

Complete this Section **ONLY IF** you dispute the information set forth in Section A above regarding your weeks worked and/or employment status as a current/former employee. To dispute your weeks worked, you must provide information establishing that the weeks worked number stated above is incorrect.

To submit a valid dispute, in the space below, you must provide your specific dates of employment, the number of weeks you believe you worked in a Class Position, your job position(s), and work location (if you need more space, you may attach any additional information that you like):

To submit a valid dispute, you must print your name, sign and date this form in the spaces provided below. By signing your name below you are certifying that the information you are providing to support your dispute is true and correct to the best of your knowledge. To be considered a valid dispute, you must mail this completed document to the Settlement Administrator at the address listed below so that it is postmarked no later than [DATE]. Please include in your mailing any record you have that supports your dispute.

C. TO RECEIVE MONEY FROM THE SETTLEMENT YOU DO NOT NEED TO TAKE ANY ACTION OR SUBMIT THIS FORM.

If you do not want to dispute the number of weeks worked being credited to you, you do not need to take any further action to be eligible for an Individual Settlement Payment. An Individual Settlement Payment will be mailed to you after the Settlement goes into effect.

UNLESS YOU ARE DISPUTING YOUR WEEKS WORKED INFORMATION SPECIFIED ABOVE, YOU DO NOT NEED TO TAKE ANY ACTION.

To submit a dispute, return this completed form **BY FIRST CLASS, U.S. MAIL, TO:**

Alarcon v. CT Commodities, Inc.
c/o ILYM Group, Inc.

Print Name: _____

Signature: _____

Date: _____

EXHIBIT C

EXCLUSION REQUEST FORM

Alarcon v. CT Commodities, Inc.
Superior Court of California, County of Tulare, VCU288012

**SUBMIT THIS FORM ONLY IF YOU WISH TO BE EXCLUDED FROM
PARTICIPATING IN THE CLASS ACTION SETTLEMENT**

By signing and returning this form, I represent that it is my desire to exclude myself from participating in the Settlement of the Class Action entitled *Miguel Alarcon, Plaintiff, v. CT Commodities, Inc., Defendant*, assigned Tulare County Case Number VCU288012 (the "Class Action").

Please note: Any person who submits this form will not receive a Class Member Payment. However, if you are PAGA Group Member, you will still be entitled to your PAGA Penalty Payment, and you will release the PAGA Claims even if you submit this form.

Name (Please Print): _____
(First) (Middle) (Last)

Address: _____
(Street)

(City) (State) (Zip)

Dated: _____ Signature: _____

**TO BE VALID, THIS FORM MUST BE POST-MARKED NO LATER THAN
_____, 20__, AND MAILED TO THE SETTLEMENT ADMINISTRATOR
AT:**

Alarcon v. CT Commodities, Inc.
c/o ILYM Group, Inc.

EXHIBIT D

SCHEPPACH BAUER PC
JOHN M. SCHEPPACH (BAR NO. 240633)
jmscheppach@sbpc.law
THOREY M. BAUER (BAR NO. 234813)
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Laguna Hills, CA 92653
Tel: (949) 209-8880 | Fax: (949) 358-7884

LAWYERS for JUSTICE, PC
Edwin Aiwazian (BAR NO. 232943)
410 West Arden Avenue, Suite 203
Glendale, CA 91203
Tel: (818) 265-1020 | Fax (818) 265-1021

Attorneys for Plaintiff
MIGUEL ALARCON,
on behalf of himself and all others similarly situated

LAW OFFICES OF BRUNN & FLYNN
GERALD BRUNN (BAR NO. 107004)
gbrunn@brunn-flynn.com
MICHAEL DONOVAN (BAR NO. 160425)
mdonovan@brunn-flynn.com
928 12th Street, Suite 200
Modesto, CA 95354
Tel: (209) 521-2133 | Fax: (209) 521-7584

Attorneys for Defendant
CT COMMODITIES, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF TULARE

MIGUEL ALARCON, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

CT COMMODITIES, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: VCU288012

Honorable David C. Mathias
Department 01

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Complaint Filed: July 26, 2021
First Amended Complaint Filed: Oct. 24, 2022
Trial Date: None Set

1 **ORDER GRANTING PRELIMINARY APPROVAL**

2 This matter came on for hearing on _____, at _____ in Department 01 of the
3 above-captioned court on the Motion for Preliminary Approval of Class Action Settlement,
4 upon the terms and conditions set forth in the Stipulation and Agreement for Class Action
5 Settlement (“Settlement Agreement” or “Settlement”) between Plaintiff and Defendant, a
6 copy of which is attached as **Exhibit “1”** to the Memorandum filed in Support of the Motion
7 For Preliminary Approval.

8 The Court, having fully reviewed the Motion for Preliminary Approval; the
9 Memorandum and Declarations filed in support thereof; the Settlement Agreement and all
10 exhibits thereto, including the Notice of Class Action Settlement (“Class Notice”); and in
11 recognition of the Court’s duty to make a preliminary determination as to the reasonableness
12 of any proposed class action settlement and, if preliminarily determined to be reasonable, to
13 ensure proper notice is provided to Class Members in accordance with due process
14 requirements, and to set a Final Fairness Hearing regarding the proposed settlement, and
15 having heard the argument of Counsel for the respective parties,

16 **~~THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDER:~~**

17 It appears to the Court on a preliminary basis that the Settlement is fair and reasonable
18 to the Class; it further appears that significant investigation, research, and litigation has been
19 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
20 respective positions; it further appears that settlement at this time will avoid substantial
21 costs, delay and risks that would be presented by the further prosecution of the litigation; it
22 further appears that the proposed Settlement has been reached as the result of intensive,
23 serious and non-collusive negotiations between the Parties.

24 ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR
25 PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT IS HEREBY
26 GRANTED, AND AS A PART OF SAID PRELIMINARY APPROVAL, THE COURT
27 HEREBY ORDERS THAT THE CLASS BE CONDITIONALLY CERTIFIED FOR
28 SETTLEMENT PURPOSES ONLY.

1 **THE COURT FURTHER FINDS AS FOLLOWS:**

2 1. The Court finds on a preliminary basis that the Settlement Agreement,
3 incorporated by this reference and made a part of this Order Granting Preliminary Approval,
4 is within the range of reasonableness of a settlement that could ultimately be given final
5 approval by this Court. The Court preliminarily finds that the terms of the Settlement are
6 fair, reasonable, and adequate, pursuant to Section 382 of the California Code of Civil
7 Procedure.

8 2. The Court notes that Defendant CT Commodities, Inc. ("Defendant" or "CT
9 Commodities") has agreed to a cash settlement and to create a Common Fund from which
10 all disbursements under the Settlement are to be paid.

11 3. The Court finds that the elements of numerosity, commonality, typicality, and
12 adequacy have been established to support conditional certification of the Class for
13 settlement purposes, with Plaintiff acting as Class Representative.

14 4. The Court hereby appoints, for settlement purposes, Plaintiff Miguel Alarcon
15 as Class Representative. The Court further finds that John M. Scheppach and Thorey M.
16 Bauer of Scheppach-Bauer PC, and Edwin Aiwazian of Lawyers for Justice, P.C., have
17 established adequacy to be appointed as Class Counsel, and they are hereby appointed as
18 Class Counsel.

19 5. The Class provisionally certified by this Order for settlement purposes
20 includes all persons currently or formerly employed by CT Commodities as non-exempt
21 employees in the State of California at any time from January 29, 2017 to August 27, 2022.

22 6. The Court finds that the proposed manner of notice is adequate.

23 7. The Court approves ILYM Group, Inc. to serve as the Settlement
24 Administrator.

25 8. The Court approves the proposed "Notice Packet," consisting of the Class
26 Notice (Exhibit A to the Settlement), the Notice of Estimated Individual Settlement Payment
27 (Exhibit B to the Settlement), and the Exclusion Request Form (Exhibit C to the Settlement),
28 and orders them to be mailed to Class Members.

1 9. The Court finds that the Class Notice constitutes the best notice practicable
2 under the circumstances and is in compliance with the laws of the State of California and, to
3 the extent applicable, the United States Constitution and the requirements of due process.
4 The Court further finds that the Class Notice fully and accurately informs Class Members
5 of all material elements of the proposed Class Action Settlement, of each Class Member's
6 right to be excluded from the Class, and each Class Member's right and opportunity to object
7 to the proposed Class Action Settlement. The Class Notice adequately advises the Class
8 about:

- 9 A. the Class Action;
- 10 B. the Settlement terms and the benefits available to each Class Member;
- 11 C. each Class Member's right to object and/or "opt out," and the timing
12 and procedures for doing so;
- 13 D. the conditional certification of the Class for settlement purposes only;
- 14 E. preliminary Court approval of the proposed Settlement;
- 15 F. timing and procedures for distributing the settlement funds; and
16 G. the date of the Final Fairness Hearing, as well as the rights of members
17 to submit objections and appear in connection with said hearing.

18 Accordingly, the Court hereby approves the proposed notices to the Class and finds
19 that mailing to the last known address of members of the Class, as specifically described
20 within the Settlement Agreement, constitutes an effective method of notifying Class
21 Members of their rights with respect to the Class Action and proposed Settlement.

22 **THE COURT FURTHER ORDERS AS FOLLOWS:**

23 10. Defendant shall, within fifteen (15) calendar days after this signed Order
24 Granting Preliminary Approval is filed, provide the Settlement Administrator with the Class
25 List as defined in the Settlement.

26 11. The Settlement Administrator shall, within seven (7) calendar days after the
27 Settlement Administrator receives the Class List from Defendant, update all addresses using
28 the National Change of Address System (NCOA) and mail to all Class Members, via first-

1 class United States Mail, the Notice Packet. The envelope that the Notice Packet is mailed
2 in will clearly state that it concerns a class action and the recipient could be entitled to a cash
3 payment. In the event of returned or non-deliverable Notice Packets, the Settlement
4 Administrator will make reasonable efforts to locate Class Members and re-send the Notice
5 Packet, if possible. In the event of returned or non-deliverable Notice Packets, the
6 Settlement Administrator will make reasonable efforts to locate Class Members through
7 skip-tracing services offered by publicly-available databases and, if possible, will re-send
8 the Notice Packet to the best available address after performing the skip-tracing. It will be
9 conclusively presumed that a Class Member's Notice Packet was received if the Notice
10 Packet has not been returned within forty-five (45) days of the mailing of the Notice Packet
11 to the Class Member.

12 12. Any Exclusion Request Form must be postmarked no later than sixty (60) days
13 after the Notice Packet is first mailed to the Class Member ("Response Deadline") and must
14 be received by the Settlement Administrator to be valid.

15 13. Any dispute submitted by a Class Member regarding the status of employment
16 ~~or number of weeks worked credited to that Class Member under the Settlement must be~~
17 postmarked no later than sixty (60) days after the date when the Notice Packet is first mailed
18 to the Class Member and must be received by the Settlement Administrator to be considered.
19 The Settlement Administrator must review all disputes with the Parties in accordance with
20 the terms of the Settlement. The Settlement Administrator must send each Class Member
21 written notice of the decision regarding his or her dispute. The Class Member shall have
22 seven (7) calendar days after the date the written notice of the decision is postmarked to opt
23 out of the Settlement by mailing a Request For Exclusion to the Settlement Administrator.
24 If, within that seven (7) calendar day time period, the Class Member does not mail a valid
25 Request for Exclusion to the Settlement Administrator, the Class Member shall be deemed
26 a Participating Class Member and will be paid in accordance with the Class Member's weeks
27 worked as noted in the written notice of the decision.

28

1 14. Objections, if any, to the Settlement by a Class Member shall be mailed to the
2 Settlement Administrator no later than sixty (60) days after the Notice Packet is first mailed
3 to the Class Member. Such objection must contain the Class Member's name, the basis for
4 their objection to the Settlement, and their signature.

5 15. In the event that a Notice Packet is re-mailed to a Class Member because the
6 first one was undeliverable, the Class Member shall have an additional fifteen (15) calendar
7 days beyond the Response Deadline to submit a valid opt-out, dispute, and/or objection to
8 the Settlement.

9 16. Class Members do not have to submit any Claim Forms since this is not a
10 claims-made settlement.

11 17. The Final Fairness Hearing shall be held at _____ on _____, in
12 Department 01 of the Tulare County Superior Court, located at the County Civic Center, 221
13 S. Mooney Blvd., Visalia, CA 93291, to consider the fairness, adequacy and reasonableness
14 of the Settlement preliminarily approved by this Order Granting Preliminary Approval, and
15 to consider the application of Class Counsel for an award of attorneys' fees and costs, and
16 ~~the Class Representatives' Enhancements. The Court may continue the Final Fairness~~
17 Hearing to another date at its discretion.

18 18. No later than twenty (20) days before the Final Fairness Hearing, the
19 Settlement Administrator shall provide to counsel for the Parties a Declaration confirming
20 that the Notice Packets have been disseminated in accordance with this Order Granting
21 Preliminary Approval and attaching a complete list of all individuals who have timely
22 requested exclusion from the Class (opt-outs), and any objections to the Settlement. Class
23 Counsel shall file the Declaration with the Court as part of the Motion for Final Approval.

24 19. Any Party to this case, including any Class Member who has not submitted a
25 valid and timely Request for Exclusion, may be heard in support of, or in opposition to, the
26 Court's determination of the good faith, fairness, reasonableness and adequacy of the
27 Settlement, the requested attorneys' fees and costs, the requested Class Representatives'
28 Enhancements, and any Order Granting Final Approval regarding such Settlement, fees,

1 costs and Enhancements; provided, however, that no person, except Class Counsel and
2 counsel for Defendant shall be heard regarding such matters unless such person has complied
3 with the conditions set forth in the Class Notice or as the Court otherwise allows in its
4 discretion.

5 20. All briefs and materials in support of an Order Granting Final Approval and
6 an application for attorneys' fees and costs and the Class Representative's Service Award
7 shall be filed with this Court no later than ten (10) court days before the date set for the Final
8 Fairness Hearing. Likewise, response briefs, if any, in opposition to objections shall be filed
9 with this Court no later than ten (10) court days before the Final Fairness Hearing.

10 21. Pending further order of this Court, all proceedings in this matter except those
11 contemplated herein and in the Settlement Agreement are stayed.

12 The Court expressly reserves the right to adjourn or continue the Final Fairness
13 Hearing from time to time without further notice to the Class.

14 **IT IS SO ORDERED.**

15
16 Dated: _____

Judge of the Superior Court of California

EXHIBIT E

SCHEPPACH BAUER PC
JOHN M. SCHEPPACH (BAR NO. 240633)
jmscheppach@sbpc.law
THOREY M. BAUER (BAR NO. 234813)
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Attorneys for Plaintiff
MIGUEL ALARCON,
on behalf of himself and all others similarly situated

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Attorneys for Defendant
CT COMMODITIES, INC.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF TULARE

MIGUEL ALARCON, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

CT COMMODITIES, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: VCU288012

Honorable David C. Mathias
Department 01

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT THEREON**

Complaint Filed: July 26, 2021
First Amended Complaint Filed: Oct. 24, 2022
Trial Date: None Set

ORDER GRANTING FINAL APPROVAL AND
ENTERING JUDGMENT THEREON

This matter came on for hearing on _____, at _____ in Department 01 of the above-captioned court on the unopposed Motion for Final Approval of the Class Action Settlement.

Having considered the Stipulation and Agreement for Class Action Settlement (the "Settlement Agreement" or "Settlement") which is attached as **Exhibit "1"** to the Memorandum filed in Support of the Motion for Final Approval; having granted preliminary approval of the same and conditional certification of the Class for settlement purposes only on _____; having entered an Order directing that the Notice Packet be mailed to the Class; having conducted a hearing regarding whether the Settlement should be granted final approval; having considered the submissions filed by the respective Parties; and good cause appearing therefor; the Court

HEREBY ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

1. The Court has jurisdiction over Plaintiff Miguel Alarcon ("Plaintiff"), Defendant CT Commodities, Inc. ("Defendant" or "CT Commodities"), and the subject matter of the action.

2. The Court hereby GRANTS final approval of the Settlement upon the terms and conditions set forth in the Settlement Agreement, including the definition of the Class and the Class Period as stated below. The Court finds that the Settlement terms are fair, reasonable, and adequate, pursuant to Section 382 of the California Code of Civil Procedure.

3. The following definitions, as provided in the Settlement, shall apply herein:

A. **"Class," "Class Member(s)," "Settlement Class," or "Settlement Class Member(s)"** means all persons currently or formerly employed by CT Commodities as non-exempt employees in the State of California at any time from January 29, 2017 to August 27, 2022.

B. **"Class Period"** means January 29, 2017, through and including August 27, 2022.

1 C. **“Covered Claims”** and **“Released Claims”** means all claims, causes
2 of action, and forms of relief which are asserted in the Complaint or that could have been
3 asserted based on the facts alleged in the Complaint, including claims for inaccurate itemized
4 wage statements, failure to separately compensate rest period time, failure to provide meal
5 periods, failure to pay meal period premiums, failure to pay all wages due upon separation
6 from employment, unreimbursed expenses, claims for violation of the California Labor Code
7 (including §§ 201-203, 204, 218, 226(a), 226.2, 226.7, 512(a), 1174(d), 1194(a), and 2802
8 thereof), and claims for violation of all similar provisions or requirements of California law
9 (including the provisions of the California Code of Regulations, the California Industrial
10 Welfare Commission Wage Orders, the General Minimum Wage Order, and Business &
11 Professions Code §§ 17200 et seq.), which the Class and/or any Class Member has ever had,
12 or hereafter may claim to have, for the Class Period.

13 D. **“PAGA Claims”** means any civil penalties under the Private Attorneys
14 General Act of 2004 arising from the Covered Claims during the PAGA Period.

15 E. **“PAGA Group”** and **“PAGA Group Members”** means all Settlement
16 Class Members who worked as a non-exempt employee of CT Commodities in California
17 at any time during the PAGA Period.

18 F. **“PAGA Period”** means the period from November 3, 2019 through
19 and including August 27, 2022.

20 G. **“Participating Class Member”** means any Class Member who does
21 not timely submit a Request for Exclusion.

22 H. **“Released Parties”** means Defendant, its affiliates, parents and
23 subsidiaries and its predecessors, successors, assigns, owners, shareholders, members,
24 officers, directors, agents, and attorneys.

25 4. The Court has determined that the Notice Packet fully and accurately informed
26 all Class Members of the material elements of the Settlement, constituted the best notice
27 practicable under the circumstances, and constituted valid, due and sufficient notice to all
28 Class Members.

1 5. The Court hereby grants final approval of the Settlement as fair, reasonable
2 and adequate.

3 6. The Court approves the non-reversionary settlement amount of \$ _____
4 (the "Gross Settlement Fund") established to fund the Settlement as fair, reasonable, and
5 adequate.

6 7. The Court approves the payment for Settlement Administration Costs incurred
7 by ILYM Group, Inc. in the amount of \$8,500 to be paid from the Gross Settlement Fund as
8 provided in the Settlement Agreement.

9 8. The Court approves a Service Award to the Class Representative in the amount
10 of \$12,000, to be paid from the Gross Settlement Fund as provided in the Settlement
11 Agreement.

12 9. The Court approves the payment of \$11,250 to the California Labor &
13 Workforce Development Agency ("LWDA") to be paid from the Gross Settlement Fund.

14 10. The Court approves the payment of attorneys' fees to Class Counsel from the
15 Gross Settlement Fund in the total amount of \$ _____.
16

17 11. The Court approves the payment of costs to Class Counsel from the Gross
18 Settlement Fund in the total amount of \$ _____.
19

20 12. The Court hereby directs Defendant to fund the Settlement in accordance with
21 the terms of, and by the deadlines supplied in, the Settlement.

22 13. The Court hereby directs the Settlement Administrator to make all
23 disbursements in accordance with the terms of, and by the deadlines supplied in, the
24 Settlement Agreement.

25 14. As set forth in the Settlement Agreement, the Settlement Administrator will
26 prepare and mail settlement checks for each Participating Class Member and PAGA Group
27 Member in the amount of his or her Individual Settlement Payment. The checks will indicate
28 on their face that they are void if not negotiated within one hundred and eighty (180) days
of their issuance. In the event a settlement check is returned to the Settlement Administrator
with a forwarding address, the settlement check will be forwarded to the forwarding address.

1 In the event a settlement check is returned to the Settlement Administrator without a
2 forwarding address or is otherwise undeliverable, the Settlement Administrator will use
3 reasonable efforts to search for a better address and re-mail the returned check, if possible.
4 If the search does not provide a better address, or the settlement check is ultimately returned
5 without a forwarding address, neither Defendant, Class Counsel nor the Settlement
6 Administrator shall be required to take further action to achieve delivery of the check to the
7 Class Member. If within the 180-day period the Class Member contacts the Settlement
8 Administrator, or if Class Counsel does so on his or her behalf, the settlement check will be
9 reissued and mailed to the address the Class Member (or Class Counsel) provides. Any such
10 reissued settlement checks will indicate on their face that they are void if not negotiated
11 within one hundred and eighty (180) days of their issuance.

12 15. Any monies not able to be delivered to a Class Member after one address
13 follow-up on returned mail and any settlement checks not cashed within one hundred and
14 eighty (180) days of issuance will escheat to the State of California, Unclaimed Property
15 Division, in the name of the corresponding Class Member.

16 16. Any Class Member who submitted a valid and timely Request for Exclusion
17 shall no longer be a Class Member, shall not be bound by the Settlement, shall have no right
18 to object to the Settlement, and shall receive no Class Member Payment. However, if a
19 Class Member who is a PAGA Group Member submitted a valid and timely Request For
20 Exclusion, the PAGA Group Member shall still be bound by the Settlement to the extent it
21 pertains to the PAGA Claims.

22 17. Upon the filing of this Order Granting Final Approval, Class Members who
23 did not timely exclude themselves from the Settlement will be deemed to have released the
24 Released Parties from the Released Claims, as set forth in the Settlement Agreement. Class
25 Members who did not timely object to the Settlement are barred from prosecuting or
26 pursuing any appeal of this Order Granting Final Approval. Upon the filing of this Order
27 Granting Final Approval, PAGA Group Members will be deemed to have released the
28 Released Parties from the PAGA Claims, as set forth in the Settlement Agreement. PAGA

1 Group Members who did not timely object to the Settlement are barred from prosecuting or
2 pursuing any appeal of this Order Granting Final Approval.

3 18. Neither this Order Granting Final Approval nor the Settlement shall constitute
4 an admission by Defendant of any liability or wrongdoing whatsoever, nor is this Order
5 Granting Final Approval a finding of the validity or invalidity of any claims in the action or
6 a finding of wrongdoing by Defendant herein.

7 19. Each Party will bear its own attorneys' fees and costs, except as provided for
8 in the Settlement and this order.

9 20. By signing and filing this Order Granting Final Approval, the Court decrees
10 that the Participating Class Members shall be conclusively deemed to have released and
11 forever discharged the Released Parties from all Released Claims. By signing and filing this
12 Order Granting Final Approval, the Court decrees that the PAGA Group Members shall be
13 conclusively deemed to have released and forever discharged the Released Parties from all
14 PAGA Claims.

15 21. Without affecting the finality of this Order Granting Final Approval in any
16 way, and pursuant to California Rules of Court, Rule 3.768(h), the Court reserves exclusive
17 and continuing jurisdiction over the action for purposes of supervising the implementation,
18 enforcement (CCP § 664.6), construction, administration and effectuation of the Settlement.

19 22. The Court hereby sets a status conference on _____ at _____.
20 in Department 01, at which time the Parties shall apprise the Court of the status of the
21 distribution of the settlement proceeds.

22 23. Notice of this executed Order Granting Final Approval Of Class Action
23 Settlement shall be posted on the Settlement Administrator's website and may be removed
24 following the status conference date set forth above.

25 **IT IS SO ORDERED, AND JUDGMENT IS HEREBY ENTERED.**

26

27 Dated: _____

Judge of the Superior Court of California

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