

LAW OFFICES OF FARRAH MIRABEL, PC

FARRAH MIRABEL, (SBN162933)

fmesq@fmirabel.com

1070 Stradella Rd.

Los Angeles, CA 90077

TELEPHONE: (714) 972-0707

Fax: (949) 417-1796

EMPLOYMENT RIGHTS LAW GROUP, APC.

Amir H. Seyedfarshi, (SBN 301656)

amir@employmentrightslawgroup.com

1180 South Beverly Drive, Suite 610

Los Angeles, California 90035

Telephone: (424) 777-0964

Attorneys for Plaintiffs, JOSE MANUEL ALAMO and BLAS NOE LICANO MUNOZ, on behalf of themselves and or all similarly situated persons

BELDEN BLAINE RAYTIS LLP

T. Scott Belden, (SBN 184387)

scott@bbr.law

Jazmine Flores, (SBN 317038)

jazmine@bbr.law

5016 California Avenue, Suite 3

Bakersfield, California 93309

Telephone: (661) 864-7826

Facsimile: (661) 878-9797

Attorneys for Defendants, Greenview Farming, Inc. and Illume Agriculture LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

JORGE DIAZ, and JOSE FIDEL CELIO,

Plaintiffs,

v.

Greenview Farming, Inc.; Illume Agriculture,
LLC; D & J Farm Management, a business
organization, form unknown; and DOES 1-50,

Defendants.

Case No.: BCV-21-101000

Assigned for all Purposes to:

Honorable Thomas S. Clark

Dept: 17

**CLASS ACTION AND PAGA
SETTLEMENT**

Complaint Filed: May 3, 2021

Trial Date: None

1 This Class Action and PAGA Settlement (hereinafter “Settlement Agreement”) is made and
2 entered into by: (1) Plaintiffs Jorge Diaz (“Plaintiff Diaz”) and Jose Fidel Celio (“Plaintiff Celio”)
3 (collectively, “Plaintiffs”), individually and in their representative capacity on behalf of the Settlement
4 Class, as defined below, and as a private attorney general on behalf of the State of California and
5 Aggrieved Employees, as defined below, of Defendants; and (2) Defendants Greenview Farming, Inc.
6 and Illume Agriculture, LLC (collectively, “Defendants”). Plaintiffs and Defendants (collectively, the
7 “Parties”) enter into this Agreement to effect a full and final settlement and dismissal of all claims
8 brought against Defendants. This Settlement Agreement is subject to the approval of the Court and is
9 made for the sole purpose of attempting to consummate settlement of the action on a class-wide,
10 representative basis and is intended to fully, finally, and forever compromise, release, resolve,
11 discharge and settle the Released Claims (defined below), subject to the terms, conditions, definitions,
12 and recitals set forth hereunder. Upon approval by the Court, the Parties request that the Court make
13 and enter judgment, as well as retain continuing jurisdiction with respect to the settlement advanced
14 herein subject to the following terms, conditions, definitions, and recitals advanced.

15 This Settlement shall be binding on Plaintiffs and the class they purport to represent, on all
16 aggrieved employees, Defendants, and on their respective counsel, subject to the terms and conditions
17 hereof and the approval of the Court. Furthermore, the Parties stipulate to class certification for
18 purposes of settlement only as set forth hereunder. As detailed below, in the event the Court does not
19 enter an order granting final approval of this Settlement Agreement or the conditions precedent are not
20 met for any reason, this Settlement Agreement is null and void and of no force or effect whatsoever,
21 and shall not be referred to or utilized for any purpose whatsoever.

22 THE PARTIES STIPULATE AND AGREE as follows:

23 **1. DEFINITIONS**

24 As used in this Settlement Agreement, the following terms shall have the meanings specified
25 below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined
26 below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into
27 this definition section.

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1 **1.1. ACTION**

2 “Action” shall mean the following civil action: *Jorge Diaz and Jose Fidel Celio, individually*
3 *and on behalf of all similarly situated v. Greenview Farming, Inc.; Illume Agriculture, LLC*, in the
4 Kern County Superior Court for the State of California, Case No. BCV-21-101000, filed on May 3,
5 2021.

6 **1.2. ADMINISTRATIVE EXPENSES**

7 “Administrative Expenses” shall include all costs and expenses associated with and payable
8 from the Gross Settlement Amount to the third-party settlement administrator for administering the
9 Class Settlement including, but not limited to, (a) printing, translating into Spanish, mailing, and
10 tracking documents for this Class Settlement; (b) calculating estimated amounts per Class Member; (c)
11 tax reporting; (d) distributing the appropriate settlement amounts; (e) providing necessary reports and
12 declarations; and (f) performing other duties and responsibilities set forth herein to process this
13 Settlement, and as requested by the Parties. The Administrative Expenses are anticipated not to exceed
14 \$30,000.00 (Thirty Thousand Dollars).

15 **1.3. APPLICABLE WAGE ORDERS**

16 “Applicable Wage Orders” shall mean the California Industrial Welfare Commission (“IWC”)
17 Wage Orders applicable to the allegations, Claims, and alleged facts of this Action, including, but not
18 limited to, IWC Wage Order Nos. 8, 13, and 14-2001 and any others that may be applicable.

19 **1.4. CLAIMS**

20 “Claims” shall mean any and all claims, causes of action, theories of liability, and allegations,
21 known and/or unknown, asserted and/or unasserted, by Plaintiffs against Defendants in the Action.

22 **1.5. CLASS ATTORNEY FEES AND EXPENSES**

23 “Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount
24 attributable to attorneys’ fees and litigation expenses, as agreed upon by the Parties and approved by
25 the Court for Class Counsel’s litigation and resolution of this Action, and all litigation costs and
26 expenses incurred and to be incurred by Class Counsel in the Action, including, but not limited to, all
27 past and future attorneys’ fees and costs incurred in the Action – including, without limitation, all time
28 expended by Class Counsel in the Action or in defending the Settlement and securing final approval of

1 the Settlement (including any appeals thereof), the costs and expenses associated with mediation,
2 documenting the Class Settlement, securing the Court’s approval of the Class Settlement, administering
3 the Class Settlement, obtaining entry of a Judgment terminating this Action, and expenses for any
4 experts. The Parties agree that the fee portion of the Class Attorney Fees and Expenses shall be up to,
5 but no greater than, 35% of the Gross Settlement Amount (i.e., \$127,750.00 (One-Hundred Twenty-
6 Seven Thousand Seven Hundred Fifty Dollars)), as approved by the Court, and the award of costs and
7 expenses shall be up to an additional \$15,000.00 (Fifteen Thousand Dollars), as approved by the Court.

8 **1.6. CLASS COUNSEL**

9 “Class Counsel” shall mean Farrah Mirabel of Law Offices of Farrah Mirabel, P.C., and Amir
10 Seyedfarshi of Employment Rights Law Group APC.

11 **1.7. CLASS AND CLASS MEMBER AND CLASS MEMBERS**

12 “Class” and “Class Member” and “Class Members” shall mean all individuals who are or were
13 employed by Greenview as a non-exempt employee or in a similar position at Illume in the State of
14 California at any time during the Class Period and worked at least one shift in California for or on
15 behalf of Greenview at Illume from May 3, 2017 through the date the Court grants Preliminary
16 Approval (“Class Period,” defined below).

17 Defendants represent that as of September 22, 2022, there were approximately 4,784 (Four
18 Thousand Seven Hundred Eighty-Four) potential Class Members who worked approximately 35,000
19 (Thirty-Five Thousand) workweeks during the Class Period (“Estimated Class Workweeks”).

20 **1.8. CLASS NOTICE**

21 “Class Notice” shall mean the *Notice of Proposed Class Action Settlement and Hearing Date*
22 *for Court Approval*, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise approved by
23 the Court, which is to be mailed to Class Members along with the Share Form.

24 **1.9. CLASS PARTICIPANTS**

25 “Class Participants” shall mean all Class Members who do not timely and validly Opt Out
26 (defined below) from the Class Settlement (i.e., who are not Opt-Outs, as that term is defined below).

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1 **1.10. CLASS PERIOD**

2 “Class Period” shall mean the period from May 3, 2017 through the date the Preliminary
3 Approval Date.

4 **1.11. CLASS REPRESENTATIVES**

5 “Class Representatives” shall mean Plaintiffs Jorge Diaz and Jose Fidel Celio, collectively.

6 **1.12. CLASS SETTLEMENT**

7 “Class Settlement” shall mean the settlement embodied in this Settlement Agreement, which is
8 subject to Court approval.

9 **1.13. COMPENSABLE WORKWEEKS**

10 “Compensable Workweeks” shall mean the weeks worked by each Class Member during the
11 Class Period based on Defendants’ employment records, and as used as a value to calculate Individual
12 Settlement Amounts.

13 **1.14. COMPLAINT**

14 “Complaint” shall mean the First Amended Complaint filed in the Action on or about February
15 19, 2021, which is the operative complaint on file in this Action and at issue.

16 **1.15. COURT**

17 “Court” shall mean the California Superior Court for the County of Kern, where the Action is
18 pending.

19 **1.16. DEFENDANTS**

20 “Defendants” shall mean Defendants Greenview Farming, Inc. and Illume Agriculture, LLC,
21 collectively.

22 **1.17. DEFENSE COUNSEL**

23 “Defense Counsel” shall refer to Scott Belden Esq. and Jazmine Flores Esq. of Belden Blaine
24 Raytis, LLP.

25 **1.18. EFFECTIVE DATE**

26 “Effective Date” shall be the date on which the Class Settlement shall become effective, after
27 all of the following events have occurred: (a) this Settlement Agreement has been executed by all
28 Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval to the

1 Class Settlement; (c) the Class Notice has been given to the Settlement Class providing them with an
2 opportunity to request exclusion from the Class Settlement; (d) the Court has held a Final Approval
3 and Fairness Hearing and entered a final order and judgment certifying the Settlement Class and
4 approving this Settlement Agreement; and (e) the later of the following events: (i) if no appeal is
5 filed, the expiration of the period of applicable time for filing any appeal, writ, or other appellate
6 proceeding opposing the Class Settlement and/or the Court's Judgment (i.e., 65 days from service of
7 the Notice of Entry of Judgment); (ii) the date of final dismissal of any appeal, writ, or other appellate
8 proceeding opposing the Class Settlement and/or the Court's Judgment with no right to pursue further
9 remedies or relief; or (iii) the date of affirmance of any appeal, writ, or the issuance of such other final
10 appellate order upholding the Court's final order and judgment becomes final under the California
11 Rules of Court and with no right to pursue further remedies or relief. In this regard, it is the intention
12 of the Parties that the Class Settlement shall not become effective until the Court's order approving the
13 Class Settlement is completely final and there is no further recourse by an appellant or objector who
14 seeks to contest the Class Settlement. In the event no objections are filed, the Effective Date shall be
15 after steps (a) through (e) are completed (i.e., the date that the Court has entered a final order and
16 judgment certifying the Settlement Class and approving this Settlement Agreement).

17 **1.19. EMPLOYEE'S TAXES AND REQUIRED WITHHOLDING**

18 "Employee's Taxes and Required Withholding" shall mean the employee's share of any and all
19 applicable federal, state, or local payroll taxes, including those collected under authority of the Federal
20 Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State
21 Unemployment Tax Act (SUTA) on the portion of any Class Participant's Individual Settlement
22 Amount that constitutes wages. The Employee's Taxes and Required Withholdings will be withheld
23 from and paid out of the Net Settlement Amount.

24 **1.20. EMPLOYER'S TAXES**

25 "Employer's Taxes" shall mean and refer to Defendants' share of payroll taxes (e.g.,
26 Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is
27 owed on the portion of any Class Participant's Individual Settlement Amount that constitutes wages.
28

1 The Employer's Taxes shall be separately paid by Defendants and shall not be paid from the Gross
2 Settlement Amount or Net Settlement Amount.

3 **1.21. FINAL APPROVAL AND FAIRNESS HEARING**

4 "Final Approval and Fairness Hearing" shall mean the final hearing before the Court to finally
5 approve the Class Settlement as fair, reasonable, and adequate.

6 **1.22. FINAL APPROVAL ORDER AND JUDGMENT**

7 "Final Approval Order and Judgment" means the Order and Judgment Granting Final Approval
8 of the Class Settlement, which shall be submitted with the Motion for Final Approval of the Class
9 Settlement.

10 **1.23. GROSS SETTLEMENT AMOUNT**

11 "Gross Settlement Amount" shall mean the sum of \$365,000.00 (Three Hundred Sixty-Five
12 Thousand Dollars) to be paid by Defendants in full and complete settlement of this Action and the
13 Released Claims, as set forth herein. The Gross Settlement Amount is the total and maximum amount
14 that Defendants will be required to pay for any and all purposes under this Settlement, with the sole
15 exception that Defendants' share of the Employer's Taxes will be paid in accordance with Section 5.5
16 of this Settlement Agreement. The Gross Settlement Amount includes all payments of any kind which
17 Defendants shall be obligated to pay including, but not limited to, all the Administrative Expenses, the
18 Employee's Taxes and Required Withholdings, the Class Attorney Fees and Expenses, the Incentive
19 Awards, the Individual Settlement Amounts, and the PAGA Payment and all other amounts other than
20 the Employer's Taxes defined above.

21 **1.24. HEARING ON PRELIMINARY APPROVAL**

22 "Hearing on Preliminary Approval" shall mean the hearing held on the motion for preliminary
23 approval of the Class Settlement.

24 **1.25. INCENTIVE AWARDS**

25 "Incentive Awards" shall mean the monetary payments to Plaintiffs, in their capacity as the
26 Class Representatives, which shall be paid from the Gross Settlement Amount, to compensate them for
27 their efforts and risks on behalf of the Settlement Class in this Action, subject to Court approval.
28 Defendants will not object to the Class Representatives' request for Court approval of the Incentive

Awards of up to an aggregate total of \$20,000.00 (Twenty Thousand Dollars), which shall be distributed as follows: Plaintiff Diaz shall be provided and paid from the Gross Settlement Amount a total of \$10,000.00 as an Incentive Award, and Plaintiff Celio shall be provided and paid from the Gross Settlement Amount a total of \$10,000.00 as an Incentive Award.

1.26. INDIVIDUAL SETTLEMENT AMOUNTS AND INDIVIDUAL SETTLEMENT AMOUNT

“Individual Settlement Amounts” and “Individual Settlement Amount” shall mean a Class Participant’s share of the Net Settlement Amount, as further detailed in Paragraphs 7.2 and 7.3 below, less any Employee’s Taxes and Required Withholdings. For tax purposes, the Parties agree to allocate payments to Class Members as follows: 20% to wages for which an IRS Form W-2 shall issue, and 80% to penalties and interest (i.e., 20% to penalties, and 60% to interest) for which an IRS Form 1099 shall issue.

1.27. LWDA

“LWDA” shall mean the California Labor and Workforce Development Agency.

1.28. NET SETTLEMENT AMOUNT

“Net Settlement Amount” shall mean the amount of the Gross Settlement Amount remaining after subtracting all Administrative Expenses; Class Attorney Fees and Expenses; Incentive Awards; and the PAGA Payment. The Net Settlement Amount is the maximum amount that will be available for distribution to Class Participants.

1.29. OPT OUT

“Opt Out” shall mean and refer to the process of submitting a timely and valid request exclusion from the Class Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline, as described in Paragraph 6.5 below.

1.30. OPT-OUTS

“Opt-Outs” shall mean all persons who timely and validly request exclusion from the Class Settlement in accordance with the terms of this Settlement Agreement and the Class Notice and no later than the Response Deadline, as described in Paragraph 6.5 below.

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1 **1.31. PAGA**

2 “PAGA” shall mean the California Labor Code Private Attorneys General Act of 2004 (as
3 amended), California Labor Code §§ 2698 *et seq.*

4 **1.32. PAGA PAYMENT**

5 “PAGA Payment” shall mean the amount of \$18,250.00 (Eighteen Thousand Two Hundred
6 Fifty Dollars), which the Parties have agreed to allocate for penalties pursuant to the PAGA claims
7 included in the Action, subject to Court approval. The PAGA Payment is to be deducted from the Gross
8 Settlement Amount. The PAGA Payment is to be approved by the Court pursuant to Labor Code section
9 2699 and is to be distributed as follows: seventy-five percent (75%) or \$13,687.50 (Thirteen Thousand
10 Six Hundred Eighty-Seven Dollars and Fifty Cents) of the PAGA Payment to the LWDA, and twenty-
11 five percent (25%) or \$4,562.50 (Four Thousand Five Hundred Sixty Two Dollars and Fifty Cents) of
12 the PAGA Payment to the PAGA Settlement Class. Class Counsel shall give timely notice of this
13 Settlement Agreement to the LWDA pursuant to Labor Code section 2699, subdivision (l)(2).

14 **1.33. PAGA PERIOD**

15 “PAGA Period” shall mean the period from April 1, 2020, through the Preliminary Approval
16 Date.

17 **1.34. PAGA SETTLEMENT CLASS AND AGGRIEVED EMPLOYEE AND**
18 **AGGRIEVED EMPLOYEES**

19 “PAGA Settlement Class,” “Aggrieved Employee” and “Aggrieved Employees” shall mean
20 and include all individuals who are or were employed by Greenview as a non-exempt employee or in
21 a similar position at Illume in the State of California at any time during the PAGA Period.

22 Defendants represent that as of September 22, 2022, there were approximately 2,237 (Two
23 Thousand Two Hundred Thirty-Seven) potential Aggrieved Employees during the PAGA Period.

24 **1.35. PARTIES**

25 “Parties” shall mean Plaintiffs and Defendants, collectively.

26 **1.36. PLAINTIFFS**

27 “Plaintiffs” shall mean Plaintiffs Jorge Diaz and Jose Fidel Celio, collectively, and each of them
28 a “Plaintiff”.

1 **1.37. PRELIMINARY APPROVAL DATE**

2 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
3 preliminarily approving this Settlement Agreement.

4 **1.38. RELEASED CLAIMS**

5 “Released Claims,” as it pertains to the Releasing Parties (defined below), shall mean any and
6 all claims, debts, liabilities, demands, obligations, actions, causes of action, guarantees, liens, promises,
7 penalties, costs, expenses, interest, restitution, attorneys’ fees and costs, losses, damages, liquidated
8 damages, punitive damages, equitable relief, or complaints of whatever kind or nature, whether known
9 or unknown, contingent or accrued, asserted or unasserted, patent or latent, against Defendants or the
10 Released Parties (defined below) or any of them, under any state, municipal or federal law, statute,
11 ordinance, regulation, order or common law principle or theory, arising out of or related to the claims,
12 causes of action, and/or allegations set forth in the Action, the Complaint and/or Plaintiffs’ PAGA
13 notice to the LWDA including, but not limited to: (1) for failure to provide rest breaks and/or pay rest
14 break premiums in accordance with applicable law including, but not limited to, Labor Code Sections
15 226.7, 512 and/or 1198, and/or the Applicable Wage Orders; (2) for failure to provide meal periods
16 and/or pay meal period premiums in accordance with applicable law including, but not limited to, Labor
17 Code Sections 226.7, 512, and/or 1198 and/or the Applicable Wage Orders; (3) for failure to pay
18 overtime wages in accordance with applicable law including, but not limited to, Labor Code Sections
19 510 and/or 1194 and/or the Applicable Wage Orders; (4) for failure to pay for sick leave in accordance
20 with applicable law including, but not limited to, Labor Code Section 246; (5) for failure to pay
21 minimum wages in accordance with applicable law including, but not limited to, Labor Code Sections
22 204, 1194, and/or 1197 and/or the Applicable Wage Orders; (6) for failure to pay all wages earned in
23 accordance with applicable law including, but not limited to, Labor Code Sections 204, 1194, and/or
24 1197 and/or the Applicable Wage Orders; (7) for failure to maintain accurate employment records in
25 accordance with applicable law including, but not limited to, Labor Code Sections 226, 1174, and/or
26 1198.5 and the Applicable Wage Orders; (8) for failure to provide accurate wage statements in
27 accordance with applicable law including, but not limited to, Labor Code Section 226 and/or the
28 Applicable Wage Orders; (9) for failure to pay wages upon separation in accordance with applicable

1 law including, but not limited to, Labor Code Sections 201, 202, and/or 203; (10) for waiting time
2 penalties; (11) for failure to reimburse business expenses in accordance with applicable law including,
3 but not limited to, Labor Code Sections 2802 and/or 2804; (12) for failure to pay equal pay for
4 substantially equal or similar work in accordance with the California Fair Pay Act, Labor Code Sections
5 1197.5 and 1199.5; (13) for unfair competition and/or deceptive, fraudulent, or otherwise unlawful
6 business practices in violation of California's Unfair Competition Law, Business and Professions Code
7 Sections 17200, *et seq.*; (14) penalties pursuant to the PAGA; (15) all other statutory penalties,
8 including those recoverable under the California Unfair Competition Act, and in particular, California
9 Business and Professions Code Sections 17200, *et seq.*; the California Code of Civil Procedure Section
10 1021.5; and any other provision of the California Labor Code, including but not limited to Labor Code
11 Sections 2698, *et seq.*, or any Applicable Wage Orders, in all their iterations; (16) all claims, causes
12 of action, theories of liability and allegations that were alleged in the Action or that could have been
13 alleged in this action based on the facts, legal theories, or causes of action alleged in the Action; and
14 (17) any and all other claims rights, demands, liabilities, penalties, causes of action, or related claims
15 for liquidated damages, fees, penalties, attorneys' fees, costs, expenses, and/or interest based on the
16 foregoing or with respect hereto or resulting from the foregoing (collectively, the "Released Claims").
17 The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the
18 Judgment will be the same as that of the Release.

19 This Settlement Agreement shall not and will not release any person, party, or entity from
20 claims, if any, by Class Participants for workers compensation, unemployment, disability benefits of
21 any nature, or other claims that cannot be waived pursuant to the operation of applicable law. Nor does
22 it release any claims, actions, or causes of action which may be possessed by Class Participants under
23 state or federal discrimination statutes, including, without limitation, the California Fair Employment
24 and Housing Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code, § 51); the
25 California Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, *et seq.*); the
26 Americans with Disabilities Act (42 U.S.C. § 12101, *et seq.*); the Employee Retirement Income
27 Security Act of 1974 (29 U.S.C. § 1001 *et seq.*); and all of their implementing regulations and
28 interpretive guidelines.

1 **1.39. RELEASED PARTIES**

2 “Released Parties” shall mean and refer to both Defendants and D & J Farm Management and
3 all of their respective former, present, and/or future, direct or indirect, employees, managers,
4 supervisors, officers, directors, owners, members, agents, partners, managers, representatives,
5 administrators, fiduciaries, trustees, insurers, attorneys, assigns, benefit plans, parent companies,
6 subsidiaries, affiliates, shareholders, predecessors and/or successors in interest, and related entities;
7 and any individual or entity which could be jointly liable with any of the foregoing.

8 **1.40. RELEASING PARTIES**

9 “Releasing Parties” shall mean Plaintiffs, and all Aggrieved Employees, and all Class
10 Participants, and all persons purporting to act on their behalf or purporting to assert a claim under or
11 through any of them, including, but not limited to, their dependents, heirs, assigns, beneficiaries,
12 devisees, legatees, executors, administrators, agents, trustees, conservators, guardians, personal
13 representatives, and successors-in-interest, whether individual, class, representative, legal, equitable,
14 direct or indirect, or any other type or in any other capacity.

15 **1.41. RESPONSE DEADLINE**

16 “Response Deadline” shall mean the date forty-five (45) calendar days immediately following
17 the date on which the Settlement Administrator mails Class Notice packets to the Class Members,
18 which is the last day on which Class Members may (1) submit a request for exclusion or Opt Out; (2)
19 object to the Class Settlement; and (c) dispute the information contained in the Summary Sheet.

20 **1.42. SETTLEMENT ADMINISTRATOR**

21 “Settlement Administrator” shall mean Phoenix Class Action Solution Inc. (“Phoenix”), an
22 independent third-party class action settlement claims administrator which the Parties have agreed will
23 be responsible for administration of the Class Settlement and related matters, subject to Court approval.
24 The Parties each represent that they do not have any financial interest in the Settlement Administrator or
25 otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.
26 In the event Phoenix is not designated or approved by the Court as the Settlement Administrator, the
27 Parties shall meet and confer to mutually decide and agree upon another settlement administrator.

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1 **1.42. SETTLEMENT CLASS AND SETTLEMENT CLASS MEMBERS**

2 “Settlement Class” and “Settlement Class Members” shall mean all Class Members who do not
3 submit a valid and timely Request for Exclusion or Opt Out as provided in this Settlement Agreement.
4 Only Settlement Class Members will release all of the Released Claims. All Settlement Class Members
5 will be bound by all terms of the Settlement and any final judgment entered in this Action based on the
6 Class Settlement.

7 **1.43. SHARE FORM**

8 “Share Form” shall mean the Share Form, as set forth in the form of **Exhibit 2** attached hereto,
9 or as otherwise approved by the Court, which is to be mailed to Class Members along with the Class
10 Notice.

11 **2. FACTUAL AND PROCEDURAL BACKGROUND**

12 **2.1. PLAINTIFFS’ CLAIMS**

13 On April 1, 2021, Plaintiffs submitted their PAGA Letter to the LWDA asserting claims that
14 Defendants violated Labor Code sections 98.6, 201-205, 210, 216, 218.5, 221, 225.5, 223, 226.2, 226.3,
15 226.7, 233, 234, 246, 510-512, 551-552, 558, 558.1, 1174, 1174.5, 1193.6, 1194-1197.1, 1198-1199.5
16 and 2698-2699, 2699.5, 2802.

17 On May 17, 2021, Plaintiffs filed this Action in Kern County Superior Court. In this Action,
18 Plaintiffs, individually and in their representative capacity on behalf of the Settlement Class, and as
19 private attorneys general on behalf of the State of California, allege, inter alia, representative claims,
20 allegations, and causes of action including, but not limited to, that Defendants allegedly failed to pay
21 minimum wages for all hours worked; failed to pay for all wages earned; failed to pay all overtime
22 wages; failed to provide compliant rest periods and/or pay rest period premiums; failed to provide
23 compliant meal periods and/or pay meal period premiums; failed to maintain accurate employment
24 records; failed to provide complete/accurate wage statements; failed to pay all wages upon separation;
25 failed to timely pay wages; owes waiting time penalties; failed to pay for sick days or sick leave; failed
26 to reimburse business expenses; failed to pay equal pay for substantially equal or similar work in
27 accordance with the California Fair Pay Act, Labor Code Sections 1197.5 and 1199.5; violated
28 California’s Unfair Competition Law, Business and Professions Code Sections 17200, *et seq.*; and owes

1 PAGA penalties. Plaintiffs also advanced under their Complaint individual claims, allegations, and
2 causes of action arising out of each Plaintiff's employment with and cessation of employment from
3 Defendants.

4 **2.2. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

5 Defendants deny any and all liability and/or wrongdoing of any kind associated with the claims
6 alleged by the Class Representatives and deny all allegations, claims, causes of action, and contentions
7 alleged by Plaintiffs in the Action, and Defendants have asserted numerous affirmative defenses.
8 Defendants expressly deny all charges of wrongdoing and liability against them arising out of any of
9 the conduct, statements, acts, and/or omissions alleged by Plaintiffs, both collectively and individually,
10 in the Action, and have expressly denied and continue to deny any wrongdoing whatsoever. Defendants
11 contend, among other things, that at all times they have complied with all California, Federal, Local,
12 and administrative wage and hour laws including, but not limited to, the California Labor Code and
13 Industrial Wage Commission Orders, and have at all times dealt legally and fairly with Plaintiffs and
14 the Class Members.

15 Defendants further contend that for any purpose other than settling this Action, the Action and
16 the claims asserted therein are not appropriate for class or representative action treatment. Thus, as
17 stated above, Defendants stipulate to certification of the Class for settlement purposes only.
18 Nonetheless, Defendants have concluded that further proceedings in the Action would be protracted
19 and expensive, and that it is desirable that the Action be fully and finally settled in the manner and
20 upon the terms and conditions set forth in this Settlement Agreement to dispose of said burdensome
21 and protracted litigation, to permit the operation of Defendants' respective businesses without further
22 substantial expense dedicated towards litigation, and to lessen distraction and diversion of their
23 personnel with respect to matters at issue in the Action. Defendants have also taken into account the
24 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action. As such,
25 even though Defendants continue to contend that they are not liable for any of the claims alleged by
26 Plaintiffs in this Action, Defendants have determined that it is in their respective best interest that the
27 Action be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement,
28 and that all actual or potential claims be fully and finally settled by Plaintiffs and the Class Members.

1 **2.3. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION**

2 The Parties have conducted a detailed and comprehensive investigation of the claims asserted
3 against Defendants including, but not limited to, applicable law, wage orders, and regulations. This
4 discovery, investigation, and prosecution has included, among other things, (a) an analysis of the legal
5 positions taken by Defendants; (b) investigation into the viability of class treatment of the claims
6 asserted in the Action; (c) analysis of potential class-wide damages, including information sufficient to
7 understand Defendants' potential defenses to Plaintiffs' claims; (d) research of the applicable law with
8 respect to the claims asserted in the Complaint and the potential defenses thereto; (e) assembling and
9 analyzing of data for calculating damages; and (f) consideration of information disclosed at and in
10 connection with mediation.

11 Class Counsel and the Class Representatives have vigorously prosecuted this Action, and
12 Defendants have vigorously contested it. The Parties have engaged in sufficient investigation and
13 discovery to assess the relative merits of the claims of the Class Representative and of the defenses to
14 them.

15 After such discovery, investigation, and prosecution, on November 15, 2022, the Parties
16 attended a full-day mediation with an experienced employment law mediator, Kelly Knight, Esq.,
17 which culminated in a settlement in principal, the terms and conditions of which are elaborated and set
18 forth under this Settlement Agreement.

19 The Parties believe that the Class Settlement is fair, reasonable, and adequate. The Class
20 Settlement was arrived at through arm's-length negotiations, taking into account all relevant factors.
21 The Parties recognize the uncertainty, risk, expense, and delay attendant to continuing the Action
22 through trial and any appeal. Accordingly, the Parties desire to fully, finally, and forever settle,
23 compromise and discharge all disputes and claims arising from or relating to the Action.

24 **2.4. ALLEGATIONS OF THE CLASS REPRESENTATIVES AND BENEFITS OF**
25 **CLASS SETTLEMENT**

26 The documents, records, and data exchanged in this Action, as well as discussions between
27 counsel, have been adequate to give the Class Representatives and Class Counsel a sound
28

1 understanding of the merits of their positions and to evaluate the value of the claims of the Settlement
2 Class and PAGA Settlement Class.

3 The Class Representatives and Class Counsel believe that the claims, causes of action,
4 allegations, and contentions asserted in the Action have merit. However, the Class Representatives and
5 Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings
6 necessary to prosecute the Action against Defendants through trial and through appeals. Class Counsel
7 has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex
8 actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential
9 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the Class.
10 Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
11 alleged in the Action.

12 The Class Representatives and Class Counsel believe that the Settlement set forth in this
13 Settlement Agreement confers substantial benefits upon Plaintiffs and the Settlement Class, as well as
14 the PAGA Settlement Class, and that an independent review of this Settlement Agreement by the Court
15 in the approval process will confirm this conclusion. Based on their own independent investigation and
16 evaluation, Class Counsel has determined that the Settlement set forth in this Settlement Agreement is
17 in the best interests of Plaintiffs and the Settlement Class.

18 **2.5. INTENT OF THE CLASS SETTLEMENT**

19 The Class Settlement set forth herein intends to achieve the following: (1) entry of an order
20 approving the Class Settlement; (2) entry of judgment of the Action; (3) discharge and release of
21 Defendants and the Released Parties from any and all liability, damages, penalties, or otherwise,
22 whether actual or perspective, for any and all of the Released Claims; and (4) discharge and release of
23 Defendants and the Released Parties from any and all liability, damages, penalties, or otherwise,
24 whether actual or perspective, for any and all claims arising out of the Action. Settlement of this Action
25 shall not, in any manner, constitute an admission of fault, wrongdoing, and/or liability by Defendants.
26 Defendants have denied and continue to deny any fault, wrongdoing, and/or liability claimed by
27 Plaintiffs.

28 ///

1 **3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

2 For the purposes of this Settlement Agreement and the Class Settlement of this Action only, the
3 Parties stipulate and agree to conditional class certification of the Class for the Class Period for
4 purposes of settlement only. The certification of the Class shall not constitute, in this or any other
5 proceeding, an admission of any kind by Defendants, including without limitation, that certification of
6 a Class is or would be warranted, appropriate or proper, or that Plaintiffs could establish any of the
7 requisite elements for class treatment of any of the claims in the Action. In the event that the Settlement
8 Agreement is not finally approved by the Court, a Final Effective Date is not achieved, or the Class
9 Settlement is rejected, terminated, or otherwise rendered null and void as set forth herein, or Defendants
10 are in any way prevented or prohibited from obtaining a complete resolution of the Action or claims as
11 described herein, then certification of the Class shall be automatically vacated, shall be void *ab initio*,
12 and of no force or effect, and shall not constitute evidence or a binding determination that the
13 requirements for certification of a class for trial purposes in this Action or in any other action which
14 have been, are or can be, satisfied, and shall not be admissible in any judicial, administrative or arbitral
15 proceeding for any purpose or with respect to any issue substantive or procedural. Further, if the
16 Agreement does not reach a Final Effective Date, Plaintiffs agree that Plaintiffs will not argue, claim,
17 reference, or otherwise raise any preliminary approval of the Class in connection with any later
18 proceeding before the Court.

19 **4. APPOINTMENT OF CLASS COUNSEL**

20 For purposes of this Settlement Agreement only and subject to the Court's approval, the Parties
21 stipulate and agree to the appointment of Class Counsel as counsel for the Settlement Class and the
22 effectuation of the Class Settlement pursuant to this Settlement Agreement.

23 **5. CONSIDERATION**

24 **5.1. SETTLEMENT AMOUNT**

25 Without admitting any liability whatsoever and subject to the terms and conditions of this
26 Agreement, and in consideration for settlement of the Action and the releases of claims as set forth in
27 this Agreement, including the Released Claims, Defendants agree to pay or cause to be paid the Gross
28

1 Settlement Amount of \$365,000.00 (Three Hundred Sixty-Five Thousand Dollars). There shall be no
2 reversion to Defendants. Defendants shall pay the Gross Settlement Amount in full.

3 The Gross Settlement Amount is the maximum total amount that Defendants are obligated to
4 pay for any and all purposes under this Settlement Agreement and the Class Settlement, with the sole
5 exception of Defendants' Employer's Taxes that are due by virtue of any settlement payments made,
6 including any Individual Settlement Amounts paid, pursuant to the terms of this Agreement. Under no
7 circumstances will Defendants be obligated to pay more than the Gross Settlement Amount and its
8 share of the Employer's Taxes, which such Employer's Taxes shall be funded in addition to the Gross
9 Settlement Amount as a result of this Settlement Agreement, unless otherwise provided for in this
10 Settlement Agreement.

11 **5.2. INCENTIVE AWARD FOR PLAINTIFFS**

12 Plaintiffs may petition the Court to approve Incentive Awards in an amount up to, but not
13 exceeding, \$10,000.00 (Ten Thousand Dollars) for Plaintiff Jorge Diaz and \$10,000.00 (Ten Thousand
14 Dollars) for Jose Fidel Celio (i.e., Incentive Awards with a maximum aggregate total of \$20,000.00
15 (Twenty Thousand Dollars) to be apportioned equally between Plaintiffs) to acknowledge their efforts
16 on behalf of the Settlement Class in this Action, including assisting in the investigation and consulting
17 with Class Counsel and providing crucial documents to Class Counsel. Defendants shall not oppose
18 any request by Plaintiffs for Incentive Awards in such an amount. Any Incentive Awards approved by
19 the Court shall be paid to Plaintiffs from the Gross Settlement Amount and shall be in addition to any
20 distribution to which he or she may otherwise be entitled as a Class Participant. Any Incentive Awards
21 approved by the Court shall not be considered wages, and the Settlement Administrator shall issue to
22 Plaintiffs an IRS Form 1099 reflecting such payments. Plaintiffs shall be solely and legally responsible
23 for the payment of all taxes with respect to any Incentive Awards approved by the Court and shall hold
24 Defendants harmless from any and all claims or liability for taxes, penalties, or interest with regard
25 thereto. In the event the Court reduces Class Representative's Incentive Award, the reduced amount
26 shall be added to the Net Settlement Amount to be distributed to Class Participants.

27 Furthermore, as set forth under this Agreement and the concurrently and separately executed
28 individual Settlement and Release Agreement concerning each Plaintiff's individual claims, Plaintiffs

1 agree to release any claims fully and completely they may have arising out of their employment with
2 Defendants, including a Civil Code Section 1542 release.

3 **5.3. PAYMENT TO CLASS PARTICIPANTS**

4 Each of the Class Participants shall be eligible to receive payment of the Individual Settlement
5 Amount, which is a share of the Net Settlement Amount based on the pro rata number of Compensable
6 Workweeks worked by the Class Members during the Class Period. For purposes of this calculation, a
7 workweek means a week where a Class Member was employed in California in a non-exempt job
8 position. The respective Compensable Workweeks for each Settlement Class Member will be divided
9 by the total Compensable Workweeks for all Settlement Class Members, resulting in the payment ratio
10 for each Settlement Class member. Each Settlement Class Member's payment ratio is then multiplied
11 by the Net Settlement Amount to determine his or her Individual Settlement Payment. The Settlement
12 Administrator will calculate the total Compensable Workweeks for all Settlement Class Members.
13 Each Class Participant, including Plaintiffs, shall be responsible for the payment of the Employee's
14 Taxes and Required Withholding with respect to his or his Individual Settlement Amount and shall
15 hold Defendants harmless from any and all liability with regard thereto.

16 **5.4. PAYMENT TO PAGA SETTLEMENT CLASS**

17 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
18 Payment of \$18,250.00 (Eighteen Thousand Two Hundred Fifty Dollars), which the Parties have
19 agreed will be paid out of the Gross Settlement Amount. The PAGA Payment shall consist of the
20 penalties pursuant to PAGA that the Parties have agreed is a reasonable sum to be paid in settlement
21 of the PAGA claims included in the Action, which is \$18,250.00, and shall be paid from the Gross
22 Settlement Amount. The PAGA Payment must be approved by the Court pursuant to Labor Code
23 section 2699 and is to be distributed as follows: seventy-five percent (75%) or \$13,687.50 (Thirteen
24 Thousand Six Hundred Eighty-Seven Dollars and Fifty Cents) of the PAGA Payment to the LWDA,
25 and twenty-five percent (25%) or \$4,562.50 (Four Thousand Five Hundred Sixty Two Dollars and Fifty
26 Cents) of the PAGA Payment to the PAGA Settlement Class. The portion of the PAGA Payment
27 allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement Class based on
28 the pro rata number of pay periods worked by each particular PAGA Settlement Class member during

1 the PAGA Period as a proportion of all pay periods worked by all members of the PAGA Settlement
2 Class during the PAGA Period. These payments are made pursuant to Labor Code Section 2699(i).

3 Class Counsel shall give timely notice of this Settlement Agreement to the LWDA pursuant to
4 Labor Code section 2699, subdivision (1)(2).

5 **5.5. TAX TREATMENT AND PAYMENT**

6 The Settlement Administrator shall be responsible for paying the employees' share of federal,
7 state, and local payroll and income taxes. For the purpose of calculating the Employer's Taxes and the
8 Employee's Taxes and Required Withholding for the Individual Settlement Amounts for Class
9 Participants (including any payments to the Class Representatives but exclusive of their Incentive
10 Awards), the Parties agree that 20% of each of the Individual Settlement Amounts shall constitute
11 payment in the form of wages (and each Class Participant will be issued an IRS Form W-2 for such
12 payment to him or her), 20% of each of the Individual Settlement Amounts shall constitute penalties,
13 and 60% of each of the Individual Settlement Amounts shall constitute interest (i.e., 80% total with
14 respect to penalties and interests and each Class Participant will be issued an IRS Form 1099 for such
15 payment to him or her).

16 Prior to final distribution of the Individual Settlement Amounts, the Settlement Administrator
17 shall calculate the total of each Class Participants' Employee's Taxes and Required Withholding due
18 as a result of the wage portion of Class Participants' anticipated Individual Settlement Amounts and
19 such actual amount will be deducted from the Net Settlement Amount. Additionally, prior to the
20 funding of the Gross Settlement Amount and final distribution, the Settlement Administrator shall
21 calculate the total amount of Defendants' share of Employer's Taxes due on the wage portion of the
22 Class Participants' Individual Settlement Amounts and issue instructions to Defendants to separately
23 fund Defendants' share of Employer's Taxes. The Parties understand that Plaintiffs and the Class
24 Participants who receive any payment pursuant to this Settlement Agreement shall be solely
25 responsible for all other individual tax obligations.

26 With respect to the portion of the PAGA Payment that is to be paid to the PAGA Settlement
27 Class in accordance with the terms of this Settlement Agreement, all such payments shall be treated as
28 payments owing for penalties and interest thereon and shall not be considered wages. The Settlement

1 Administrator shall issue to members of the PAGA Settlement Class an IRS Form 1099 reflecting such
2 payment. Members of the PAGA Settlement Class shall be solely responsible for the payment of all
3 taxes with respect to any payments of the portion of the PAGA Payment made to them.

4 The Settlement Administrator shall issue an IRS Form W-2 to each Class Participant for the
5 portion of the Individual Settlement Amount that is designated as wages. The Settlement Administrator
6 shall issue an IRS Form 1099 to each Class Participant for the portion of the Individual Settlement
7 Awards that is not designated as wages. The Settlement Administrator shall issue an IRS Form 1099
8 to the Class Representatives for any Incentive Awards paid in connection with their roles as the Class
9 Representatives.

10 The Settlement Administrator shall file, with the California Employment Development
11 Department (“EDD”), the required reports of Personal Income Tax (“PIT”) wages withheld from the
12 Individual Settlement Amounts, as well as the amounts to be paid as Unemployment Insurance (“UI”),
13 Employment Training Tax (“ETT”), and State Disability Insurance (“SDI”). For purposes of this
14 reporting, prior to disbursement of the Individual Settlement Amounts, the Settlement Administrator
15 shall provide Defendants with a list of all Class Participants, and Defendants shall provide to the
16 Settlement Administrator its Form DE 2088, Notice of Contribution Rates and Statement of UI
17 Account, for the current calendar year (if unavailable, Defendants may provide instead their California
18 State Employer’s Identification Number and its applicable UI and ETT Rates).

19 All Class Participants and Plaintiffs will be responsible for correctly characterizing the
20 compensation they receive for tax purposes and for paying any taxes on the amounts received, except
21 for Defendants’ share of Employer’s Taxes which will be handled as provided by this Settlement
22 Agreement. The Class Participants and Plaintiffs agree to indemnify Defendants for any liability
23 Defendants incurs to any tax authority on account of the Class Participants’ or Plaintiffs’ failures to
24 pay all taxes due on amounts they receive hereunder, except to the extent the failure results from
25 Defendants’ failure to pay their own respective portion of taxes due.

26 **5.6. TAX OBLIGATIONS**

27 Each of the Parties and the Class Participants will be responsible for their own tax obligations.
28 The Parties agree and understand that Defendants have not made any representations regarding the tax

1 obligations or consequences, if any, related to the Class Settlement. In the event that it is subsequently
2 determined by a tax authority that any of the Class Participants, including Plaintiffs, owe any additional
3 taxes with respect to any money distributed under the Class Settlement, it is expressly agreed that the
4 determination of any tax liability is between the payment recipient and the tax authorities, and that
5 Defendants shall not be responsible for the payment of such taxes, including any interest and penalties.

6 **5.7. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

7 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
8 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
9 program sponsored by Defendants, or effect the eligibility or calculation thereof. Amounts paid to
10 Plaintiffs or other Settlement Class Members pursuant to this Agreement shall be deemed not to be
11 pensionable earnings, as well.

12 All monies received by Settlement Class Members shall be deemed to be income to such
13 Settlement Class Members solely in the year in which such awards actually are received by Settlement
14 Class Members. It is understood that the receipt of such amounts and/or awards will not entitle
15 Settlement Class Members to, will not form the basis for, and/or will not trigger additional
16 compensation, contributions to, benefits under, or any other monetary entitlement under any of
17 Defendants' company compensation plans or sponsored benefit plans, policies, or bonus programs, nor
18 will it entitle any Settlement Class member to any increased pension and/or retirement, or other
19 deferred compensation benefit or benefits. It is the intent of this Settlement that any Settlement Award
20 or Class Settlement payment provided for in this Agreement are the sole payments to be made by
21 Defendants to Settlement Class Members in connection with this Settlement, and that the Settlement
22 Class Members are not entitled to any new or additional compensation or benefits as a result
23 (notwithstanding any contrary language or agreement in any benefit or compensation plan document
24 that might have been in effect during the period covered by this Settlement).

25 The payments made under the terms of this Settlement Agreement shall not be applied
26 retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of
27 compensation for the purposes of any of Defendants' benefit plan, policy, or bonus program.
28 Defendants retains the right to modify the language of its benefits plans, policies, and bonus programs

1 to reflect this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are
2 not for “weeks worked,” “weeks paid,” “weeks of service,” or any similar measuring term as defined
3 by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or
4 any other purpose, and that additional contributions or benefits are not required by this Settlement
5 Agreement. Defendants does not consider the Class Settlement payments “compensation” for purposes
6 of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs,
7 or any other plan sponsored by Defendants.

8 **5.8. CLASS ATTORNEY FEES AND EXPENSES**

9 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
10 an award of Class Attorney Fees and Expenses with the fee portion not to exceed 35% of the Gross
11 Settlement Amount (i.e., \$127,750.00) and the award of costs and expenses up to, but not more than,
12 an additional \$15,000.00. The Class Attorney Fees and Expenses shall be paid from the Gross
13 Settlement Amount. To the extent compliant with this Agreement and made in good faith, Defendants
14 agree not to oppose or object to Class Counsel’s application for Class Attorney Fees and Expenses.

15 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
16 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
17 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
18 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for
19 Class Attorney Fees and Expenses or the Court’s award of Class Attorney Fees and Expenses is less
20 than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
21 Attorney Fees and Expenses awarded. In the event the Court reduces the Class Attorney Fees and
22 Expenses, the reduced amount shall be added to the Net Settlement Amount to be distributed to Class
23 Participants. Class Counsel shall not have the right to revoke this Agreement in the event the court
24 reduces Class Attorney Fees and/or Expenses, and the Agreement shall remain binding.

25 The Class Attorney Fees and Expenses approved by the Court shall reflect: (a) all work
26 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
27 represent the Settlement Class through the date of this Settlement Agreement; (b) all work to be
28 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;

(c) all work to be performed and costs and expenses, if any, incurred in connection with administering the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and (d) may be based on the “catalyst theory” and/or the “common fund doctrine.” Notwithstanding, and as set forth above, Class Attorney Fees and Expenses shall in no manner exceed 35% of the Gross Settlement Amount Award. Furthermore, this Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys’ fees, costs, and/or expenses.

Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment of any fees and expenses pursuant to this section. The Settlement Administrator shall issue an IRS Form 1099 – MISC to Class Counsel for payments made pursuant hereto.

6. SETTLEMENT ADMINISTRATION

6.1. COSTS AND EXPENSES

All Administrative Expenses and costs and expenses due to the Settlement Administrator in connection with its administration of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class Members, processing Requests for Exclusion or Opt-Out requests and objections, distributing the portion of the PAGA Payment payable to the LWDA, distributing the portion of the PAGA Payment payable to the members of the PAGA Settlement Class, and calculating, administering and distributing Individual Settlement Amounts to the Class Participants and related tax forms and withholdings, shall be paid from the Gross Settlement Amount. The costs of administration for the disbursement of the Gross Settlement Amount, as set forth above, shall not exceed \$30,000.00. To the extent administration costs are less than \$30,000.00, the amounts not utilized for purposes of settlement administration or incurred as costs thereof will be added to the Net Settlement Amount to be distributed to Class Participants. Defendants agree not to oppose any such applications which are consistent with this paragraph. The Parties agree to cooperate in the Settlement Administration process and to make all reasonable efforts to control and minimize the cost and expenses incurred in administration of the Class Settlement.

6.2. PAYMENT BY DEFENDANTS

Defendants shall deposit the Gross Settlement Amount in a lump sum payment to the Settlement Administrator within 31 days after the Effective Date by depositing the Gross Settlement Amount into

1 a Qualified Settlement Fund (“QSF”), which shall be established and administered by the Settlement
2 Administrator. In no event shall Defendants be obligated to pay or deposit with the Settlement
3 Administrator more than the Gross Settlement Amount (\$365,000.00). Defendants shall be separately
4 and solely responsible for any Employer’s Taxes owed or due as a result of this Settlement Agreement.

5 **6.3. THE SETTLEMENT ADMINISTRATOR**

6 The Settlement Administrator will be responsible for: (a) preparing, translating into Spanish,
7 printing, and mailing the Class Notice and Share Form (**Exhibit 1** and **Exhibit 2**, respectively) to Class
8 Members as well as following up with reasonable skip tracing; (b) posting notice of entry of final order
9 and judgment certifying the Class Settlement and approving this Settlement Agreement; (c) handling
10 inquiries from Class Members concerning the Class Notice; (d) determining Individual Settlement
11 Amounts; (e) determining individual payments to members of the PAGA Settlement Class; (f)
12 maintaining the settlement funds in an appropriate interest-bearing account; (g) preparing,
13 administrating, and distributing Individual Settlement Amounts to Class Participants; (h) preparing,
14 administrating, and distributing individual payments to members of the PAGA Settlement Class;
15 distributing the portion of the PAGA Payment payable to the LWDA; (i) issuing a final report; (j)
16 notifying the Parties of the identity of Class Members who submit timely Requests for Exclusion; (k)
17 calculating and paying the Employer’s Taxes due on any of the payments made under this Settlement
18 Agreement; (l) determining each of the Class Participant’s share of Employee’s Taxes and Required
19 Withholding; (m) establishing and maintaining a QSF; (n) filing any required federal and state tax
20 forms and related agency reporting; (o) filing any required reports with the Court and, as necessary,
21 providing any declaration(s) in support of preliminary and/or final approval of this Class Settlement;
22 and (p) performing such other duties as the Parties may direct. Additionally, the Settlement
23 Administrator will handle all tax document preparation and reporting, including state and federal tax
24 forms, if any.

25 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
26 Defense Counsel with summary information updating them as to the number of validated and timely
27 objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and
28 Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no

1 later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel
2 with proof of mailing of the Class Notice, without listing individual Class Member names, which the
3 Settlement Administrator will file with the Court at the time Class Counsel files its motion in support
4 of the Court's Final Approval and Fairness Hearing.

5 No later than seven (7) days prior to the Final Approval and Fairness Hearing, the Settlement
6 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
7 information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class
8 Participant, without any identifying personal information; **(b)** the number of Class Participants to
9 receive such payments, and **(c)** the final number of Opt-Outs and objections.

10 **6.4. NOTICE TO CLASS MEMBERS**

11 Notice shall be provided to Class Members in the following manner: Within thirty (30) calendar
12 days after the Preliminary Approval Date, Defendants shall provide the Settlement Administrator with
13 the following information and data (formatted as an Microsoft Excel spreadsheet, Word document, or
14 in another acceptable, usable format) that is within Defendants' possession and to the extent available
15 containing for each Class Member: (a) the Class Member's name; (b) the Class Member's last known
16 address; (c) the Class Member's social security number; and (d) the number of workweeks worked
17 during the Class Period and the PAGA Period ("Class Information"). This Class Information is
18 confidential and not to be disclosed to anyone other than the Settlement Administrator. Class Counsel
19 shall not receive a copy of the Class Information. This Class Information shall be based on Defendants'
20 payroll, employment, and other business records.

21 Within twenty-one (21) days following receipt of the foregoing Class Information from
22 Defendants, the Settlement Administrator shall determine the number of Compensable Workweeks
23 worked by each Class Member; populate the data for each Class Member accordingly; conduct a
24 National Change of Address search to update any addresses provided; and thereafter mail a copy of the
25 Notice to all Class Members by first class regular U.S. Mail, using the most current mailing address
26 information provided by Defendants and/or obtained by the Settlement Administrator. The Settlement
27 Administrator shall exercise its best judgment to determine the current mailing address for each Class
28 Member. The address identified by the Settlement Administrator as the current mailing address shall

1 be presumed to be the best mailing address for each Class Member. The Class Notice shall also contain
2 an easily understood statement alerting the Class Members that, unless they elect to Opt Out of the
3 Class Settlement, the Class Member shall be bound to the terms and conditions of this Settlement
4 Agreement including their release and waiver of all Released Claims against Defendants and the
5 Released Parties.

6 The Class Notice will inform Class Members of their estimated Individual Settlement Amounts
7 and the number of workweeks that they worked during the Class Period. Class Members will have the
8 opportunity to dispute their workweeks if they believe they worked more weeks during the Class Period
9 than Defendants' records show by submitting evidence, documentation, and/or information to the
10 Settlement Administrator no later than forty-five (45) days after being mailed the Class Notice and
11 Share Form by the Settlement Administrator, which is the defined Response Deadline. The Settlement
12 Administrator shall notify Class Counsel and Defense Counsel of any such disputes in accordance with
13 the provisions of Section 7.9 of this Agreement. If there is a dispute, the Settlement Administrator will
14 jointly work with and consult the Parties to resolve the dispute in good faith and determine whether an
15 adjustment is warranted. If Plaintiffs and Defendants cannot agree over the workweeks to be credited
16 or adjusted in the event of dispute, the Settlement Administrator shall make the final decision based on
17 the information presented by the Class Member and Defendants, of which shall be binding upon the
18 Class Member and the Parties.

19 Any disputes not resolved by the Settlement Administrator concerning the administration of the
20 Class Settlement will be resolved by the Court, under the laws of the state of California. Prior to any
21 such involvement by the Court, counsel for the Parties will confer in good faith to resolve the disputes
22 without necessity of court intervention.

23 The Settlement Administrator will engage in address searches consistent with its normal
24 practices in administering settlements of wage claims, including skip tracing. Such search efforts shall
25 include, where necessary, using social security numbers to obtain better address information and
26 attempting to call such Class Members.

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1 **6.5. OPT-OUT PROCEDURE**

2 The Class Notice shall state that Class Members who wish to exclude themselves from the Class
3 Settlement must submit a written request for exclusion by the Response Deadline. Class Members who
4 fail to submit a valid and timely written request for exclusion or Opt Out of the Class Settlement on or
5 before the Response Deadline will be deemed to participate in the Class Settlement and shall become
6 Class Participants without having to submit a claim form or take any other action, and shall be bound
7 by all terms of the Class Settlement and any final judgment entered in this Action if the Class Settlement
8 is approved by the Court. To Opt Out of the Class Settlement, the Class Member must submit a letter
9 or postcard to the Settlement Administrator postmarked by the Response Deadline. The Opt Out request
10 must state the Class Member's name, address, telephone number, and signature. The Opt Out request
11 must also state something to the effect of:

12 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE JORGE
13 DIAZ ET AL. V. GREENVIEW FARMING ET AL. LAWSUIT. I UNDERSTAND
14 THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL
15 NOT RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS
16 LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE."

17 Any Opt Out request that is not postmarked by the Response Deadline will be invalid. The date
18 of the postmark on the Opt Out shall be the exclusive means used to determine whether it has been
19 timely submitted. The Opt Out will be deemed invalid if it does not contain or clearly state the Class
20 Member's name, address, and telephone number; a clear statement by the Class Member electing to
21 Opt Out or be excluded; and the Class Member's signature. Any Class Member who requests to be
22 excluded or Opts Out from the Settlement Class will not be entitled to any recovery under the Class
23 Settlement and will not be bound by the terms of the Class Settlement or have any right to object,
24 appeal, or comment thereto. Class Members who receive a Class Notice of Class Settlement, but fail
25 to submit a valid and timely Opt Out on or before the Response Deadline, shall be bound by all terms
26 and conditions of this Settlement Agreement and any Final Judgment entered in this Action.

27 Any returned envelopes from this mailing with forwarding addresses will be utilized by the
28 Settlement Administrator to forward the Class Notices to the Class Members. Notices returned to the

1 Settlement Administrator as non-delivered shall be re-sent to the forwarding address, if any, on the
2 returned envelope. If no forwarding address is provided, the Settlement Administrator shall promptly
3 attempt to determine a correct address by use of skip-tracing or other search using the name, address,
4 and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if
5 another mailing address is identified. Upon completion of these steps by the Settlement Administrator,
6 the Parties shall be deemed to have satisfied their obligation to provide the Notice to the affected Class
7 Member. The affected Class Member shall remain a Class Participant and shall be bound by all the
8 terms of this Settlement Agreement and the Court's Final Order and Judgment. Any Re-Mailing of the
9 Notice shall extend the Response Deadline by a period of ten (10) calendar days from the original
10 Response Deadline.

11 It will be presumed that, if an envelope containing the Class Notice has not been returned within
12 twenty-eight (28) days of the mailing, the Class Member received the Class Notice. At least ten (10)
13 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
14 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
15 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
16 specify the number of Class Members to whom the Class Notice was sent and the number of Class
17 Members to whom the Class Notice was not delivered, as well as information relating to the number
18 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

19 If the Settlement Administrator determines that an Opt Out request returned by a Class Member
20 before the Response Deadline is deficient, then the Settlement Administrator shall mail a deficiency
21 letter to that Class Member identifying the problem. If a Class Member submits both a dispute and an
22 Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify if the Opt Out
23 request was deficient. If the Class Member fails to cure the deficiency, the Opt Out request shall be
24 disregarded and the Class Member shall become a Class Participant and will be bound by all terms and
25 conditions of this Settlement Agreement and any Final Judgment entered in this Action and will be
26 paid in accordance with the terms of this Settlement Agreement.

27 A request to Opt Out of the Class Settlement shall not serve to exclude the Class Member from
28 participation in the PAGA Settlement Class. Members of the PAGA Settlement Class shall have no

1 right or ability to opt out of the portion of this Settlement Agreement releasing any PAGA claims as
2 set forth herein.

3 Class Participants will be bound by the terms and conditions of this Agreement, including the
4 Release of Released Claims set forth in the definition of “Released Claims” provided in this Settlement
5 Agreement.

6 **6.6. OBJECTION PROCEDURE**

7 The Class Notice shall inform the Class Members of their right to object to the Class Settlement.
8 Any Class Member who wishes to object to the Class Settlement must submit a written objection to the
9 Settlement Administrator no later than the Response Deadline and must file with the Court, and serve
10 on all Parties a written statement of objection (“Notice of Objection”). The date of the postmark of the
11 objection set forth on the Notice of Objection shall be the exclusive means used to determine whether
12 the objection was timely submitted.

13 Only Class Participants may object to the Class Settlement. The Notice of Objection must
14 include (a) the objector’s full name, address, telephone number, Social Security number and/or
15 Employee ID number, and signature; (b) a clear reference to the case name and case number; (c) a clear
16 and concise statement of all the reasons why the objector believes that the Court should find that the
17 proposed Class Settlement is not in the best interest of the Settlement Class and the reasons why the
18 Class Settlement should not be approved, including the legal and factual arguments supporting the
19 objection; (d) copies of any papers, briefs, or other documents upon which the objection is based; and
20 (e) if the objector intends to appear at the Final Approval and Fairness Hearing. If an objector also
21 wishes to appear at the Final Approval and Fairness Hearing, in person or through an attorney, they
22 must file a notice of intention to appear at the same time as the Notice of Objection is filed.

23 Unless otherwise ordered by the Court, Settlement Class Members who fail to make objections
24 in the manner specified above shall be deemed to have waived any objections and shall be foreclosed
25 from making any objections (whether by appeal or otherwise) to the Class Settlement. Settlement Class
26 Members who submit a timely Notice of Objection will have a right to appear at the Final Approval
27 and Fairness Hearing in order to have their objections heard by the Court and may appear through their
28 own attorney at the Settlement Class Member’s own expense. At no time shall any of the Parties or

1 their counsel seek to solicit or otherwise encourage Class Members to file written objections to the
2 Class Settlement or appeal from the Final Approval Order and Judgment.

3 The Settlement Administrator will promptly serve copies of any objection or notice of intention
4 to appear on Class Counsel and Defense Counsel. Class Counsel shall lodge a copy of the objection
5 with the Court. Class Members may appear at the Final Approval and Fairness Hearing, either in person
6 or through a lawyer retained at their own expense whether or not they have submitted a timely written
7 objection and notice of intention to appear pursuant to this subsection.

8 In the event that the Court approves this Class Settlement notwithstanding the objections of any
9 Class Members, Class Members who object to the Class Settlement will nonetheless be bound by the
10 Class Settlement. Class Members who Opt Out of the Class Settlement shall not have standing to
11 object to the Class Settlement or to file an appeal.

12 **6.7. NOTICE OF FINAL JUDGMENT**

13 Within ten (10) days after the Court has held a Final and Fairness Approval Hearing and entered
14 a final order certifying the Class for settlement purposes only and approving the Class Settlement, the
15 Settlement Administrator will give notice of judgment to Class Members pursuant to rule 3.771(b) of
16 the California Rules of Court, by posting a copy of said order and final judgment on its website at a
17 web address to be included in the Class Notice.

18 **7. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

19 **7.1. ALLOCATION OF THE GROSS SETTLEMENT AMOUNT**

20 The claims of all Class Members are settled for the Gross Settlement Amount of \$365,000.00,
21 which will be allocated as follows:

- 22 1. The Administrative Expenses, not to exceed \$30,000.00;
- 23 2. Class Counsel's Class Attorney Fees and Expenses not to exceed \$127,750.00;
- 24 3. Class Counsel's litigation costs and expenses not to exceed \$15,000.00;
- 25 4. The Incentive Awards not to exceed \$10,000.00 for each named Plaintiff, for a
26 maximum aggregate total of \$20,000.00; and
- 27 5. The PAGA Payment of \$18,250.00, which shall be distributed as follows: Payment to
28 LWDA of \$13,687.50 and to the PAGA Settlement Class of \$4,562.50.

1 **7.2. CALCULATION OF THE INDIVIDUAL SETTLEMENT AMOUNTS FOR**
2 **CLASS PARTICIPANTS**

3 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement
4 Administrator shall calculate the estimated Net Settlement Amount by deducting the following
5 estimated values from the Gross Settlement Amount prior to sending the Class Notice to the Class
6 Members:

7 All Administrative Expenses, which are anticipated not to exceed \$30,000.00;

8 All Class Attorney Fees and Expenses, which are not to exceed \$127,750.00, plus an additional
9 \$15,000.00;

10 All Incentive Awards, which are not to exceed \$20,000.00 (or \$10,000.00 to each Plaintiff);
11 and

12 The PAGA Payment of \$18,250.00 (or \$13,687.50 to the LWDA and \$4,562.50 to the PAGA
13 Settlement Class).

14 Prior to final distribution, the Settlement Administrator shall recalculate the final Net
15 Settlement Amount by deducting the actual values of the amounts in each category above as set forth
16 herein.

17 Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net
18 Settlement Amount. The portion of the Net Settlement Amount shall be distributed pro rata on a
19 “checks cashed” basis based on the proportional number of workweeks worked by each Class Member
20 during the Class Period.

21 The Settlement Administrator shall be solely and exclusively responsible for calculating the
22 Individual Settlement Amounts for Class Participants. Defendants shall have no responsibility for
23 deciding the validity of the Individual Settlement Amounts or any other payments made pursuant to
24 this Settlement Agreement, shall have no involvement in or responsibility for the determination or
25 payment of Employee’s Taxes and Required Withholding, and shall have no liability and shall be
26 indemnified for any errors made with respect to such Employee’s Taxes and Required Withholding.
27 Although the Settlement Administrator will calculate and pay the standard Employee’s Taxes and
28 Required Withholding on the portion of the Individual Settlement Amounts constituting wages on their

1 behalf, Plaintiffs and Class Participants represent and understand that they shall be solely responsible
2 for any and all tax obligations associated with their respective Individual Settlement Amounts and
3 Incentive Awards.

4 **7.3. CALCULATION OF THE PAYMENTS FOR INDIVIDUAL MEMBERS OF**
5 **THE PAGA SETTLEMENT CLASS**

6 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
7 Payment, namely 25% of the PAGA Payment. The PAGA Payment shall consist of the penalties
8 pursuant to PAGA that the Parties have agreed is a reasonable sum to be paid in settlement of the
9 PAGA claims included in the Action, which is \$18,250.00, subject to Court approval. The PAGA
10 Payment is to be approved by the Court pursuant to Labor Code section 2699 and is to be distributed
11 as follows: seventy-five percent (75%) (i.e., \$13,687.50) to the LWDA and twenty-five percent (25%)
12 (i.e., \$4,562.50) to the PAGA Settlement Class.

13 The Settlement Administrator shall be responsible for calculating the Individual PAGA
14 Payments for the PAGA Settlement Class. The portion of the PAGA Payment allocated to the PAGA
15 Settlement Class shall be distributed to the PAGA Settlement Class based on the pro rata number of
16 pay periods worked by each particular PAGA Settlement Class member during the PAGA Period as a
17 proportion of all pay periods worked by all PAGA Settlement Class members during the PAGA Period.
18 Each member of the PAGA Settlement Class, including Plaintiffs, shall be responsible for the payment
19 of the Employee's Taxes and Required Withholding with respect to their share of the PAGA Payment
20 and shall hold Defendants harmless from any and all liability with regard thereto.

21 Defendants shall have no responsibility for deciding the validity of the individual payment
22 amounts allocated to each member of the PAGA Settlement Class or any other payments made pursuant
23 to this Settlement Agreement, shall have no involvement in or responsibility for the determination or
24 payment of Employee's Taxes and Required Withholding, and shall have no liability and be
25 indemnified for any errors made with respect to such Employee's Taxes and Required Withholding.

26 The members of the PAGA Settlement Class shall be solely responsible for any and all tax
27 obligation associated with their respective shares of the PAGA Payment.

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1 **7.4. TIME FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

2 The Settlement Administrator shall distribute to Class Counsel any Class Attorney Fees and
3 Expenses approved by the Court to Class Counsel no later than thirty (30) days after the Effective Date.

4 **7.5. TIME FOR PAYMENT OF INCENTIVE AWARD**

5 The Settlement Administrator shall distribute to Plaintiffs the Incentive Awards approved by
6 the Court no later than thirty (30) days after the Effective Date.

7 **7.6. TIME FOR PAYMENT OF PAGA PAYMENT TO THE LWDA**

8 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
9 due to the LWDA and approved by the Court no later than thirty (30) days after the Effective Date.

10 **7.7. TIME FOR PAYMENT OF TAXES AND REQUIRED WITHHOLDING AND**
11 **INDIVIDUAL SETTLEMENT AMOUNTS**

12 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
13 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
14 the Individual Settlement Amount to each Class Participant, by first-class United States mail, to the
15 last-known address no later than thirty (30) days after the Effective Date. If the Settlement
16 Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel
17 and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required
18 Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no
19 circumstances shall the Settlement Administrator distribute checks to Class Participants until all
20 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
21 remaining monetary obligations have been calculated and accounted for.

22 **7.8. NON-CASHED SETTLEMENT CHECKS**

23 Individual Settlement Payment checks shall remain negotiable for One Hundred Eighty (180)
24 days from the date of issuance. Any funds associated with checks issued in accordance with the terms
25 of this Settlement Agreement that have not been cashed within One Hundred Eighty (180) days, will
26 become void, and the Individual Settlement Amount associated with the uncashed check will be mailed
27 to the California Unclaimed Property Fund. For the purposes of determining whether Defendants have
28 met their financial obligation to pay the Individual Settlement Amounts, Defendants will be deemed to

1 have fulfilled their obligation upon the mailing of the check by the Settlement Administrator to the
2 Class Participants, regardless of whether such Class Participants subsequently negotiate the check.

3 **7.9. DISPUTES REGARDING CLASS MEMBER WORKWEEK DATA OR**
4 **PAYMENT OF INDIVIDUAL SETTLEMENT SHARES**

5 As set forth above, each Class Member has the opportunity to dispute the number of
6 Compensable Workweeks or their estimated Individual Settlement Amount contained on their Class
7 Notice (“Workweek Dispute”). Class Member Compensable Workweeks and the corresponding
8 Individual Settlement Amount shall be calculated using the employment and payroll records of
9 Defendants, which presumptively shall be deemed to be full, complete, and accurate for purposes of
10 this Settlement Agreement. To overcome that presumption, any Class Member objecting to the
11 accuracy of the number of Compensable Workweeks or amount of the Individual Settlement Amount
12 must submit documentary evidence, such as pay stubs or other written employment records, to the
13 Settlement Administrator.

14 Any Workweek Dispute must be mailed or faxed to the Settlement Administrator by the Class
15 Member, postmarked or fax-stamped on or before the Response Deadline. The Settlement
16 Administrator shall immediately provide copies of all Workweek Disputes to counsel for Defendants,
17 shall inform Class Counsel of the dispute without disclosing the identity of the Class Member making
18 the dispute, and shall immediately attempt to resolve all such disputes directly with relevant Class
19 Members with the assistance of Defendants, Defense Counsel, and Class Counsel. If the Workweek
20 Dispute cannot be resolved, it shall be submitted to the Settlement Administrator for its final, non-
21 appealable decision based on the written documentation presented by the Class Member and any
22 materials submitted by Defendants. The Settlement Administrator shall use its best efforts to resolve
23 all such disputes prior to the Effective Date. In the event the Settlement Administrator cannot resolve
24 the dispute, the dispute shall be submitted to the Court for resolution, of which the Parties shall confer
25 prior thereto for purposes of reaching a good faith resolution. Any decision reached by the Settlement
26 Administrator and/or the Court shall be binding upon the Parties and Class Members.

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1 If, however, a dispute arises or is not resolved until after the Gross Settlement Amount has been
2 distributed, the initial calculation shall stand (as Defendants shall be under no obligation to pay any
3 amounts in excess of the Gross Settlement Amount under this Settlement Agreement).

4 **8. NULLIFICATION OF THIS SETTLEMENT AGREEMENT**

5 **8.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT**

6 The Class Settlement and conditional class certification shall be considered null and void, and
7 neither the Class Settlement, conditional class certification, nor any of the related negotiations or
8 proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in the
9 same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with
10 the Court, and any order of judgment entered by the Court in furtherance of the settlement shall be
11 vitiated *nunc pro tunc*, if any of the following occurs: (a) the Court should for any reason fail to approve
12 this Settlement Agreement in the form agreed to by the Parties; (b) the Court does not enter the Final
13 Settlement Approval Order and Judgment as provided for herein or contemplated by this Settlement
14 Agreement; (c) the Court should for any reason fail to enter a judgment with prejudice of the Action;
15 (d) the Court does not enter a Final Settlement Approval Order and Judgment as provided for herein
16 that becomes final as a result of the occurrence of the Effective Date; (e) the Settlement does not
17 become final for any other reason; or (f) the approval of the Class Settlement and judgment is reversed,
18 modified, or declared or rendered void. Notwithstanding the foregoing, the Parties may attempt in
19 good faith to cure any perceived defects or enter into further negotiations with respect to this Settlement
20 Agreement to facilitate approval.

21 In the event that this Settlement Agreement is not preliminarily or finally approved by the
22 Court; fails to become effective as set forth herein; voided; or is reversed, withdrawn or modified by
23 the Court or in any way prevents or prohibits Defendants from obtaining a complete resolution of the
24 claims as described herein: (1) This Settlement Agreement shall be void *ab initio* and of no force or
25 effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose
26 or with respect to any issue, substantive or procedural; (2) the conditional class certification (obtained
27 for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any
28 judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive

1 or procedural; and (3) none of the Parties to this Settlement Agreement will be deemed to have waived
2 any claims, objections, defenses or arguments in the Action, including with respect to the issue of class
3 certification.

4 **8.2. PARTIES' RIGHTS TO VOID CLASS SETTLEMENT; ESCALATOR**
5 **NEGOTIATION CLAUSE**

6 If ten percent (10%) or more members of the Settlement Class timely submit Opt Out requests,
7 Defendants shall have the right (but not the obligation) to void this Settlement Agreement, in which
8 case (1) this Settlement Agreement shall be void *ab initio* and of no force or effect, and shall not be
9 admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any
10 issue, substantive or procedural; (2) the conditional class certification (obtained for any purpose) shall
11 be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or
12 arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and (3) none
13 of the Parties to this Settlement Agreement will be deemed to have waived any claims, objections,
14 defenses or arguments in the Action, including with respect to the issue of class certification.

15 Class Counsel and Plaintiffs agree not to oppose any application by Defendants and/or its
16 Counsel that is consistent with this paragraph. The Parties and their counsel agree not to take any action
17 to encourage any Class Members to Opt Out of and/or object to the Settlement Agreement. If the
18 Settlement is voided on this basis, no payment will be made by Defendants to Plaintiffs, any Class
19 Member, nor Class Counsel, and all Parties and third parties referenced in this Settlement Agreement
20 will bear their own costs, fees, and expenses associated with the Litigation.

21 As set forth above, on November 15, 2022, the Parties engaged in a full-day mediation
22 concerning this Action. On said date, to its best knowledge and estimation, Defendants estimated that,
23 as of September 22, 2022, were an approximate total of 35,000 Estimated Class Workweeks that had
24 been worked by approximately 4,784 Class Members during the Class Period.

25 If at the time of Preliminary Approval, the total number of Compensable Workweeks is greater
26 than 10% of the amount of Estimated Class Workweeks, then at the election of Defendants, (a) the
27 Gross Settlement Amount shall be increased proportionately, or (b) Defendants shall have the right
28 (but not the obligation) to void this Settlement Agreement, in which case this Settlement Agreement

1 shall be of no force or effect as provided herein, including in Section 8.1 above; or (c) the Parties have
2 the right (but not the obligation) to reduce the applicable Class Period by mutual written agreement of
3 the Parties.

4 **8.3. INVALIDATION**

5 Invalidation of any material portion of this Settlement Agreement shall invalidate this
6 Settlement Agreement and the Class Settlement in its entirety, unless the Parties subsequently agree in
7 writing that the remaining provisions of the Class Settlement are to remain in full force and effect.

8 **8.4. INTERIM STAY AND STAY ON APPEAL**

9 The Parties agree to stay all proceedings in the Action, except such proceedings necessary to
10 implement and complete the Class Settlement, holding the Action in abeyance pending the Final
11 Approval and Fairness Hearing to be conducted by the Court.

12 If an appeal is filed from the Court's Final Settlement Approval Order and Judgment prior to
13 the Effective Date, administration of the Class Settlement shall be immediately stayed pending final
14 resolution of the appeal process. Defendants shall not be obligated to fund the Gross Settlement
15 Amount or take any other actions required by this Settlement Agreement until all appeal rights have
16 been exhausted by operation of law.

17 **9. MOTIONS FOR COURT APPROVAL**

18 **9.1. PRELIMINARY APPROVAL**

19 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
20 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
21 Settlement, and shall apply to the Court for the entry of an order substantially in the following form:

- 22 a) Preliminarily approving the Settlement Agreement under the legal standards relating to
23 the preliminary approval of class action settlements;
- 24 b) Approving Phoenix Class Action Solution Inc. as the Settlement Administrator;
- 25 c) Scheduling the Final Approval and Fairness Hearing on the question of whether the
26 proposed Settlement – including, but not limited to, payment of Class Attorney Fees and Expenses, the
27 Administrative Expenses, appointment of the Class Representatives and the amount of their Incentive
28 Awards, the PAGA Payment and the method of determining Individual Settlement Amounts to be paid

1 to Class Participants, should be finally approved as fair, reasonable, and adequate as to the Class, and
2 setting a date by which Plaintiffs, the Class Members, and Defendants must file their respective
3 responses to timely objections, if any, to the Class Settlement;

4 d) Approving as to form and content the proposed Class Notice and Share Form (attached
5 as Exhibit 1 and Exhibit 2, respectively), and finding that the proposed method of disseminating the Class
6 Notice meets the requirements of California Rule of Court 3.766 and of due process and is the best
7 notice practicable under the circumstances;

8 e) Establishing the procedures and the deadline by which Class Members may assert
9 objections to the Class Settlement;

10 f) Directing the mailing to Class Members of the Notice, by first class U.S. Mail, pursuant
11 to the terms specified herein; and

12 g) Enjoining the Class Representatives and all Class Members from instituting,
13 commencing, filing or prosecuting, or continuing to prosecute, directly or indirectly, , as an individual
14 or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other capacity
15 of any kind whatsoever, any claims, suits, or administrative proceedings (including filing claims with
16 the California Division of Labor Standards Enforcement, any action in this Court, any other state court,
17 or any arbitration or mediation proceeding or any other similar proceeding) against any or all of the
18 Released Parties regarding claims that are Released Claims that would be released and discharged upon
19 final approval of the Settlement Agreement, pending the Court's final determination of whether the
20 proposed Class Settlement will be approved, and in order to aid of the Court's jurisdiction and to
21 prevent a multiplicity of lawsuits, unless such individuals have submitted valid and timely Opt Out
22 requests or Requests for Exclusion to the Settlement Administrator, and except as the Court may further
23 order upon application of a Class Member and notice to all Parties.

24 Each party shall cooperate to present the Class Settlement to the Court for preliminary approval
25 in a timely fashion. While Defendants can reserve their right to object to facts or assertions made in the
26 moving papers, Defense Counsel agrees not to oppose Plaintiffs' Motion so long as it is made in good
27 faith and reflective of the terms and conditions of this Settlement Agreement and the Class Settlement
28 reached.

1 **9.2. FINAL APPROVAL**

2 Class Counsel shall timely prepare Final Settlement Papers in conformance with the terms of
3 this Settlement Agreement, including: (1) a motion for final approval of the Class Settlement and award
4 of Class Attorney Fees and Expenses, Administrative Expenses, the PAGA Payment, and the Incentive
5 Awards; (2) the [Proposed] Order Granting Final Approval of the Class Settlement to present to the
6 Court for its approval and judgment thereon consistent with the terms and conditions of this Settlement
7 Agreement; and (3) any other documents, petitions, or motions required to effectuate this Class
8 Settlement – including, but not limited to, any additional proposed orders requested by the Court. Class
9 Counsel shall provide copies of such documents to Defendants’ counsel at least three (3) days before
10 filing for comment, though Class Counsel is not required to obtain Defendants’ approval before filing.

11 The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval
12 and Fairness Hearing, Plaintiffs shall move the Court for the entry of the final order certifying the
13 Settlement Class for settlement purposes only and approving the Class Settlement as being fair,
14 reasonable, and adequate to the Class Participants within the meaning of California Rules of Court,
15 Rule 3.769, subdivisions (c), (d) and (e), and for the entry of a final judgment of the Action consistent
16 with the terms of the Class Settlement and rule 3.769, subdivision (h), of the California Rules of Court,
17 that includes the following provisions:

- 18 a) A provision directing the Parties to implement the terms of the Settlement Agreement;
19 b) A provision defining the Class;
20 c) A provision releasing and discharging the Released Parties from any and all liability
21 with respect to the Released Claims and Plaintiffs’ General Released Claims as provided herein;
22 d) A provision permanently barring and enjoining all Class Members who did not timely
23 Opt Out from prosecuting against any of the Released Parties, any individual, class or collective claims
24 based on any of the Released Claims released herein;
25 e) A provision awarding reasonable Class Attorney Fees and Expenses to Class Counsel
26 as provided in Subsection 5.8 of this Settlement Agreement, or reserving jurisdiction with respect
27 thereto; and

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1 f) A provision awarding an Incentive Award to each of the Class Representatives as
2 provided in Subsection 5.2 of this Settlement Agreement, or reserving jurisdiction with respect thereto.

3 Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence
4 as may be required for the Court's determination.

5 **10. RELEASES AND WAIVERS**

6 **10.1. RELEASE OF CLAIMS BY ALL SETTLEMENT CLASS MEMBERS**

7 Upon the Effective Date of this Settlement Agreement, in exchange for the consideration set
8 forth in this Settlement, all the Releasing Parties will be deemed to have, and by operation of the Final
9 Approval Order and Judgment, will expressly have fully, finally, and forever released, settled,
10 compromised, relinquished and discharge all the Released Parties, and each and all of them, of and
11 from any and all Released Claims for any period of time during the Class Period to the fullest extent
12 permitted by law. It is the desire of the Parties and the Releasing Parties for the Releasing Parties to
13 fully, finally, and forever settle, compromise, and discharge any, each, every, and all of the Released
14 Claims. Each of the Releasing Parties, including each of the Class Participants, will be bound by this
15 Release of Released Claims as set forth in this subsection 10.1 of the Settlement Agreement, as a result
16 of the Class Settlement, and pursuant to the terms of the final judgment and the satisfaction of such
17 judgment. The *res judicata* effect of the Judgment will be the same as that of this Release. The Parties
18 understand and specifically agree that the scope of the Release described in this Paragraph is a material
19 part of the consideration for this Settlement Agreement; was critical in justifying the agreed upon
20 economic value of this Settlement Agreement and without it Defendants would not have agreed to the
21 consideration provided; and is narrowly drafted and necessary to ensure that Defendants are obtaining
22 peace of mind regarding the resolution of claims that were or could have been alleged based on the
23 facts, causes of action, and legal theories asserted in the Action.

24 Class Participants will be deemed to have acknowledged and agreed that their claims for wages
25 and/or penalties in the Action are disputed, and that their respective Individual Settlement Amount
26 constitutes payment, resolution, settlement, and discharge of all sums allegedly due to them and all
27 claims to be released held. Class Participants will be deemed to have acknowledged and agreed that
28

1 California Labor Code section 206.5 is not applicable to the Individual Settlement Amount. That
2 section provides in pertinent part as follows:

3 “An employer shall not require the execution of a release of a claim or right on account
4 of wages due, or to become due, or made as an advance on wages to be earned, unless
5 payment of those wages has been made.”

6 **10.2. GENERAL RELEASE OF CLAIMS BY NAMED PLAINTIFFS**

7 As a condition of the Class Settlement, in consideration for the consideration set forth in this
8 Agreement, as of the Effective Date, Plaintiffs, as the Class Representatives, on behalf of themselves
9 and their respective dependents, heirs and assigns, beneficiaries, devisees, legatees, executors,
10 administrators, agents, trustees, conservators, guardians, personal representatives, and successors-in-
11 interest, whether individual, class, representative, legal, equitable, direct or indirect, or any other type
12 or in any other capacity, shall and do hereby separately waive, release, acquit and forever release,
13 discharge and agree to hold harmless, all the Released Parties from all the Released Claims and any
14 and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies,
15 damages, actions, causes of action, suits, rights, demands, grievances, setoffs, guarantees, indemnities,
16 counterclaims, penalties, costs, losses, debts and expenses (including attorneys’ fees and costs), and
17 controversies of whatever kind and nature, character, and description, whether known or unknown,
18 whether anticipated or unanticipated, whether asserted or unasserted, whether at law or in equity,
19 whether sounding in tort, contract, federal, state or local law, statute, ordinance, regulation, common
20 law, or other source of law or contract, which they had, may now have or may have after the signing
21 of this Settlement Agreement (collectively, “Claims or Causes of Action”), arising out of or in any way
22 related to or connected with their respective employment with any or all Defendants or the other
23 Released Parties, separation of such employment, or otherwise relating to, any or all of the Released
24 Parties including, but not limited to, the Released Claims, claims that were asserted or could have been
25 asserted in the Complaint or the Action, any and all transactions, occurrences, and/or matters between
26 either or both Plaintiffs and any or all of the Released Parties occurring prior to the Effective Date of
27 this Settlement Agreement, tort claims, contract claims, claims for wages, premium and other forms of
28 pay, unpaid/unreimbursed costs, penalties (including, without limitation, waiting time penalties and

1 wage statement penalties), general damages, compensatory damages, liquidated damages, punitive
2 damages, interest, attorneys' fees, litigation and other costs, expenses, restitution, equitable relief,
3 declaratory relief, wrongful termination claims, disability claims, benefit claims, public policy claims,
4 retaliation claims, statutory claims, personal injury claims, emotional distress claims, invasion of
5 privacy claims, defamation claims, fraud claims, quantum meruit claims, and any and all claims arising
6 under any federal, state or other governmental statute, law, regulation or ordinance including, but not
7 limited to, any and all claims under: (a) the Americans with Disabilities Act; (b) Title VII of the Civil
8 Rights Act of 1964; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981; (e) the Age Discrimination
9 in Employment Act and/or the Older Workers Benefit Protection Act; (f) the Fair Labor Standards Act;
10 (g) the Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the
11 Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family
12 and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and
13 Housing Act; (n) the California Constitution; (o) the California Labor Code or other state wage and
14 hour laws; (p) the California Government Code; (q) the California Civil Code; (r) the California
15 Business and Professions Code, including but not limited to §§ 17200 *et seq.*; (s) the United States
16 Constitution; (t) the California Whistleblower Protection Act; (u) any applicable California Industrial
17 Welfare Commission Wage Orders; (v) the Unruh Civil Rights Act; (w) the California Labor Code
18 Private Attorneys General Act of 2004, California Labor Code Sections 2699, *et seq.*; (x) the California
19 Family Rights Act; (y) the Uniformed Services Employment and Reemployment Rights Act; and (z)
20 any and all other federal, state, and local statutes, ordinances, regulations, rules, and other laws, and all
21 of their implementing regulations and interpretive guidelines, and any and all claims based on
22 constitutional, statutory, common law, or regulatory grounds as well as any other claims based on
23 theories of wrongful or constructive discharge, breach of contract or implied contract, fraud,
24 misrepresentation, promissory estoppel, or intentional infliction of emotional distress, negligent
25 infliction of emotional distress, or damages under any other federal, state, or local statutes, ordinances,
26 regulations, rules, or laws to the fullest extent permitted by law. This release includes, but is not limited
27 to, Claims or Causes of Action for any and all relief, no matter how denominated, including, but not
28 limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages,

1 liquidated damages, punitive damages, damages for pain and suffering, and attorneys' fees and costs,
2 and Plaintiffs, on behalf of themselves and their dependents, heirs, assigns, beneficiaries, devisees,
3 legatees, executors, administrators, agents, trustees, conservators, guardians, personal representatives,
4 and successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect,
5 or any other type or in any other capacity, shall and do hereby separately waive, release, acquit and
6 forever release, discharge, and agree to hold harmless Defendants and the other Released Parties from
7 any and all claims for attorneys' fees and costs arising out of the matters released in this Settlement
8 Agreement (collectively, "Plaintiffs' General Released Claims").

9 **10.3. WAIVER OF CALIFORNIA CIVIL CODE SECTION 1542 BY PLAINTIFFS**

10 Plaintiffs intend that this Settlement Agreement be, and is, a general release that shall be
11 effective as a bar to any and all claims against all the Released Parties. Plaintiffs recognize that they
12 may have some claim, demand, and/or cause of action against the Released Parties of which Plaintiffs
13 are completely unaware and unsuspecting that Plaintiffs are each giving up by the execution of this
14 Settlement Agreement. Plaintiffs intend, in executing this Settlement Agreement, that this Settlement
15 Agreement will deprive them of each such claim, demand or cause of action and will prevent Plaintiffs
16 from asserting it against the Released Parties. In furtherance of this intention, Plaintiffs knowingly,
17 voluntarily, and expressly waive any rights or benefits conferred by the provisions of the California
18 Civil Code Section 1542, which Plaintiffs specifically acknowledge that they are aware of and familiar
19 with the provisions of California Civil Code section 1542, which provides as follows:

20 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
21 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
22 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
23 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
24 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
25 PARTY."

26 Plaintiffs, being aware of California Civil Code section 1542, hereby expressly waive and
27 relinquish any and all rights and benefits they may have under section 1542 of the California Civil
28 Code as well as any other statutes or common law principles of a similar effect. Plaintiffs may hereafter

1 discover claims or facts in addition to, or different from, those which they now know or believe to exist
2 or be true, but Plaintiffs expressly agree to fully, finally, and forever settle, discharge, and release any
3 and all claims against the Released Parties, known or unknown, suspected or unsuspected, contingent
4 or non-contingent, that were asserted or could have been asserted upon any theory of law or equity
5 without regard to the subsequent discovery of existence of such different or additional facts. Plaintiffs
6 acknowledge and agree that they each have had the opportunity to be advised by their own legal
7 counsel, and have done so, with respect to this general release and to this express waiver of California
8 Civil Code Section 1542 and other similar statutes or rules of law.

9 **10.4. CIRCULAR 230 DISCLAIMER**

10 Each Party to this Settlement Agreement (for purposes of this section, the “Acknowledging
11 Party”; and each party to this Agreement other than the Acknowledging Party, an “Other Party”)
12 acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written
13 communication or disclosure between or among the Parties or their attorneys and other advisers, is or
14 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
15 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
16 C.F.R. Part 10); (2) the Acknowledging Party (a) has relied exclusively upon him or its own
17 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
18 Agreement, (b) has not entered into this Settlement Agreement based upon the recommendation of any
19 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
20 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that
21 may be imposed on the Acknowledging Party; and (3) no attorney or adviser to any other party has
22 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies
23 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
24 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
25 Settlement Agreement.

26 ///

27 ///

28 ///

1 **11. DUTIES OF THE PARTIES**

2 **11.1. MUTUAL FULL COOPERATION**

3 The Parties agree to cooperate fully with one another to accomplish and implement the terms
4 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
5 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
6 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
7 by this Settlement Agreement and any other efforts that may become necessary by court order or
8 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
9 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendants and
10 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
11 this Settlement Agreement.

12 **11.2. DUTY TO SUPPORT AND DEFEND THE CLASS SETTLEMENT**

13 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
14 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
15 legal challenge, whether by appeal or collateral attack.

16 **12. MISCELLANEOUS PROVISIONS**

17 **12.1. ENFORCEMENT**

18 Notwithstanding anything else contained herein, this Settlement Agreement shall be
19 enforceable under California Code of Civil Procedure section 664.6. The disposition entered by the
20 Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the
21 allegations of the Action. Its sole purpose is to adopt the terms of the Settlement Agreement and to
22 retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over
23 this Action and over all Parties and Class Members to the fullest extent to enforce and effectuate the
24 terms and intent of this Settlement Agreement.

25 **12.2. DIFFERENT FACTS**

26 The Parties acknowledge that, except for matters expressly represented herein, the facts in
27 relation to the Action and all claims released by the terms of this Settlement Agreement may turn out
28 to be different from the facts now known by each Party and/or its counsel, or believed by such Party or

counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective and binding despite such difference.

12.3. NO PRIOR ASSIGNMENTS

The Parties represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right herein released and discharged except as set forth herein.

12.4. NON-ADMISSION

Nothing contained in this Settlement Agreement is to be interpreted, construed, or deemed to be an admission, statement, or agreement of liability, fault, or wrongdoing by Defendants. Each of the Parties has entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. Nothing herein shall constitute any admission by Defendants of wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any admission by Defendants regarding the merits of the claims in this Action, including but not limited to claims for unpaid wages or violations under California or federal law. Nothing herein shall constitute an admission by Defendants that the Action was properly brought as a class or representative action other than for settlement purposes. To the contrary, Defendants deny each and every material factual allegation in the Action and all claims alleged therein. Defendants deny any and all liability and/or wrongdoing of any kind associated with the claims alleged by the Class Representatives and deny all of the allegations, claims, and contentions alleged by Plaintiffs in the Action, and have asserted numerous affirmative defenses. Defendants expressly deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendants further contend that, for any purpose other than settling this Action, the Action and the claims asserted therein, are not appropriate for class or representative action treatment. To this end, the Class Settlement of the Action, the negotiation and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement Agreement or the Class Settlement are not, shall not be deemed to be,

1 and may not be used as, an admission or evidence of any wrongdoing or liability on the part of
2 Defendants or of the truth of any of the factual allegations in the Complaint in the Action; and are not,
3 shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission
4 on the part of Defendants in the Action or any civil, criminal, or administrative proceeding in any court,
5 administrative agency, or other tribunal. Further, this Settlement Agreement and the attached exhibits
6 are settlement documents, and, pursuant to California Evidence Code section 1152, these documents
7 shall be inadmissible in any proceeding except in an action or proceeding to approve, interpret, or
8 enforce this Settlement Agreement.

9 **12.5. NON-EVIDENTIARY USE**

10 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
11 or drafting of it, shall be offered or used as evidence by Plaintiffs, any Class Member (including any
12 individual who requested to be excluded from the Settlement Class or Opt-Outs), Defendants, or its,
13 her, his, or their respective counsel, in the Action, except as is reasonably necessary to effectuate the
14 Settlement Agreement's purpose and terms. This Settlement Agreement may, however, be used by
15 Defendants and/or the other Released Parties to prove or defend against any claim released herein by
16 any Class Member or any or both Class Representatives in any judicial, quasi-judicial, administrative,
17 or governmental proceeding.

18 **12.6. MEDIA OR PRESS**

19 Plaintiffs and Defendants, and their respective counsel, recognize, accept, and agree that the
20 Parties to this Settlement Agreement desire that the terms of this Settlement Agreement, the fact of the
21 Class Settlement embodied in this Settlement Agreement, the disposition of the Action, the Action, and
22 all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
23 obtained during the course of the Action, shall not be discussed with, publicized, or presented to the
24 media or press. The Parties and their counsel shall not issue press releases, communicate with, or
25 respond to any media or publication entities, publish information in manner or form, whether printed
26 or electronic, on any medium or otherwise communicate, whether by print, video, recording or any
27 other medium, with any person or entity concerning the Settlement Agreement, including the fact of
28 the Settlement Agreement, its terms or contents and the negotiations underlying the Settlement

1 Agreement, except as shall be contractually required to effectuate the terms of the Settlement
2 Agreement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class
3 counsel in other actions, Class Counsel may disclose a brief description of the case and the fact of
4 settlement. In response to any inquiries, including those from media outlets, concerning the settlement,
5 the Parties and their respective counsel agree that they shall simply respond by stating, “the matter has
6 resolved.”

7 **12.7. NON-RETALIATION**

8 Defendants understand and acknowledge that they have a legal obligation to not retaliate against
9 any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the Class
10 Settlement. Defendants will refer any inquiries regarding this Class Settlement to the Settlement
11 Administrator or Class Counsel and will not discourage Class Members who are employees, directly
12 or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of the Parties,
13 or their respective attorneys or agents, shall solicit or encourage any Class Members, directly or
14 indirectly, to Opt Out of the Class Settlement.

15 **12.8. CONSTRUCTION**

16 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
17 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement
18 Agreement is not to be construed in favor of or against any Party by reason of the extent to which any
19 Party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
20 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
21 next business day.

22 **12.9. GOVERNING LAW**

23 This Settlement Agreement is intended to and shall be governed by the laws of the State of
24 California, without regard to conflict of law principles, in all respects, including execution,
25 interpretation, performance, and enforcement.

26 **12.10. NOTICES**

27 Except for Class Member notices required to be made by the Settlement Administrator, all
28 notices or other communications required or permitted under this Settlement Agreement shall be in

1 writing and shall be sufficiently given if delivered in person to the Parties or their counsel or by U.S.
2 certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the
3 Parties' respective counsel appearing on pages 1 and 2 this Settlement Agreement.

4 **12.11. CAPTIONS AND INTERPRETATIONS**

5 Section titles or captions contained herein are inserted as a matter of convenience and for
6 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
7 or any provision thereof.

8 **12.12. MODIFICATION**

9 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
10 by the Parties. This Settlement Agreement may not be discharged except by performance in accordance
11 with its terms or by a writing signed by the Parties.

12 **12.13. INTEGRATION CLAUSE**

13 This Settlement Agreement contains the entire agreement between the Parties relating to the
14 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
15 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
16 and whether by a Party or such Party's legal counsel, are upon full execution of this Settlement
17 Agreement hereby superseded. No rights under this Settlement Agreement may be waived except in
18 writing signed by all Parties as provided above.

19 **12.14. SUCCESSORS AND ASSIGNS**

20 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
21 Members (excluding only Opt-Outs) and their respective present and former heirs, trustees, executors,
22 administrators, representatives, officers, directors, shareholders, agents, employees, insurers, attorneys,
23 accountants, auditors, advisors, consultants, pension plans, welfare benefit plans, fiduciaries, parent
24 companies, subsidiaries, affiliates, related companies, joint ventures, predecessors, successors, and
25 assigns.

26 **12.15. CORPORATE SIGNATORIES**

27 Any person executing this Settlement Agreement or any such related document on behalf of a
28 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all

1 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
2 this Settlement Agreement or any such related document.

3 **12.16. EXECUTION IN COUNTERPARTS**

4 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
5 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
6 have the same force and effect as if all Parties had signed the same instrument.

7 **12.17. ATTORNEY FEES, COSTS, AND EXPENSES**

8 Except as otherwise specifically provided for herein, each of the Parties shall bear his or its own
9 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
10 and shall not seek reimbursement thereof from any other Party to this Settlement Agreement.

11 **12.18. ACTION TO ENFORCE AGREEMENT**

12 In the event that any of the Parties to this Stipulation institutes any legal action, arbitration, or
13 other proceeding against any of the other Parties to enforce the provisions of this Settlement Agreement
14 or to declare rights or obligations under this Settlement Agreement, the prevailing party shall be entitled
15 to recover his or its attorney fees and costs incurred in connection with any such enforcement
16 proceedings.

17 **12.19 JURISDICTION OF THE COURT**

18 The Court shall retain jurisdiction with respect to the interpretation, implementation, and
19 enforcement of the terms of this Settlement Agreement and all orders and judgments entered in
20 connection therewith.

21 **12.20 EXHIBITS INCORPORATED BY REFERENCE**

22 The terms of this Settlement Agreement include the terms set forth in any Exhibit attached
23 hereto, which are incorporated by this reference as though fully set forth herein. Any Exhibit to this
24 Settlement Agreement is an integral part of the Settlement Agreement.

25 **12.21 BINDING AGREEMENT**

26 The Parties intend that this Settlement Agreement shall be fully enforceable and binding on all
27 Parties, and that it shall be admissible and subject to disclosure in any proceeding to enforce its terms,
28

1 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or
2 state law.

3 **13. EXECUTION**

4 The Parties and their counsel have executed this Settlement Agreement on the date below their
5 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
6 date of the latest signature.

7 **APPROVAL AND EXECUTION BY PARTIES**

8 Class RepresentativeS:

9
10 Dated: _____

JOSE FIDEL CELIO
Plaintiffs and Class Representatives

11
12 Dated: _____

JORGE DIAZ
Plaintiffs and Class Representatives

13
14
15 DefendantS:

16 **GREENVIEW FARMING, INC.**

17 Dated _____

Sign: _____
Print: _____
Its: _____

18
19
20
21 **ILLUME AGRICULTURE, LLC**

22 Dated _____

Sign: _____
Print: _____
Its: _____

23
24
25
26
27
28 **APPROVED AS TO FORM BY COUNSEL**

1 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or
2 state law.

3 **13. EXECUTION**

4 The Parties and their counsel have executed this Settlement Agreement on the date below their
5 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
6 date of the latest signature.

7 **APPROVAL AND EXECUTION BY PARTIES**

8 Class RepresentativeS:

9
10 Dated: 01-11-23

JOSE FIDEL CELIO
JOSE FIDEL CELIO
Plaintiffs and Class Representatives

11
12 Dated: 01-11-23

JORGE DIAZ
JORGE DIAZ
Plaintiffs and Class Representatives

13
14
15 DefendantS:

16 **GREENVIEW FARMING, INC.**

17 Dated _____

18 Sign: _____
19 Print: _____
20 Its: _____

21 **ILLUME AGRICULTURE, LLC**

22 Dated _____

23 Sign: _____
24 Print: _____
25 Its: _____

26
27
28 **APPROVED AS TO FORM BY COUNSEL**

1 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or
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3 **13. EXECUTION**

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5 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
6 date of the latest signature.

7 **APPROVAL AND EXECUTION BY PARTIES**

8 Class RepresentativeS:

9
10 Dated: 01-11-23

JOSE FIDEL CELIO
JOSE FIDEL CELIO
Plaintiffs and Class Representatives

11
12 Dated: 01-11-23

JORGE DIAZ
JORGE DIAZ
Plaintiffs and Class Representatives

13
14
15 DefendantS:

16 **GREENVIEW FARMING, INC.**

17 Dated 1-31-23

18 Sign: Alexander E. Ruiz
19 Print: Alexander E. Ruiz
20 Its: _____

21 **ILLUME AGRICULTURE, LLC**

22 Dated _____

23 Sign: _____
24 Print: _____
25 Its: _____

26
27 **APPROVED AS TO FORM BY COUNSEL**
28

1 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or
2 state law.

3 **13. EXECUTION**

4 The Parties and their counsel have executed this Settlement Agreement on the date below their
5 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
6 date of the latest signature.

7 **APPROVAL AND EXECUTION BY PARTIES**

8 Class RepresentativeS:

9
10 Dated: _____

JOSE FIDEL CELIO
Plaintiffs and Class Representatives

11
12 Dated: _____

JORGE DIAZ
Plaintiffs and Class Representatives

13
14
15 DefendantS:

16 **GREENVIEW FARMING, INC.**

17 Dated _____

18 Sign: _____
19 Print: _____
20 Its: _____

21 **ILLUME AGRICULTURE, LLC**

22 Dated 11/20/2023

23 Sign: [Signature]
24 Print: Carol Smith
25 Its: CEO

26
27
28 **APPROVED AS TO FORM BY COUNSEL**

LAW OFFICE OF FARRAH MIRABEL

Dated 01-11-23

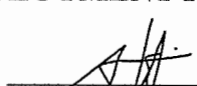
By: 

Farrah Mirabel, Esq.

Attorneys for Plaintiffs

Dated 1/6/2023

EMPLOYMENT RIGHTS LAW GROUP, APC

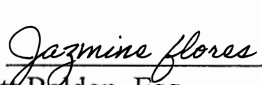
By: 

Amir Seyedfarshi

Attorneys for Plaintiffs

Dated 1-31-2023

BELDEN BLAINE RAYTIS, LLP

By: 

Scott Belden, Esq.

Jazmine Flores, Esq.

Attorneys for Defendants, Greenview Farming Inc.
and Illume Agriculture, LLC

EXHIBIT 1

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
AND HEARING DATE FOR COURT APPROVAL**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

**Jorge Diaz and Jose Fidel Celio v. Greenview Farming, Inc and Illume Agriculture, LLC
Case No. BCV-21-101000**

TO: *All individuals who are or were employed by Greenview Farming, Inc. (“Greenview”) as a non-exempt employee or in a similar position at Illume Agriculture, LLC (“Illume”) in the State of California at any time during the period from May 3, 2017 through the date of preliminary approval, and worked at least one shift in California for or on behalf of Greenview at Illume from May 3, 2017 through the date of preliminary approval (“Class Members”).*

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

A proposed settlement (“Settlement”) of the above-captioned putative class action (“Action”) filed in the Kern County Superior Court (“the Court”) has been reached by the parties and has been granted preliminary approval by the Court supervising the Action. The Settlement has been reached on behalf of a proposed Class, defined as: All individuals who are or were employed by Greenview Farming, Inc. as a non-exempt employee or in a similar position at Illume Agriculture, LLC in the State of California at any time during the period from May 3, 2017 through the date of preliminary approval (“Class Period”), and worked at least one shift in California for or on behalf of Greenview at Illume during the Class Period.

You have received this notice packet because Greenview’s records indicate that you worked at least one shift in California for or on behalf of Greenview as a non-exempt employee or in a similar position at Illume during the Class Period. The purpose of this notice is to explain the Action, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

If finally approved, the proposed Settlement will resolve the Action filed against Greenview and Illume (collectively, “Defendants”), alleging claims for allegedly: (1) failing to pay minimum wages and pay for all wages earned; (2) failing to pay overtime; (3) failing to provide off-duty meal periods to and/or pay meal period premiums; (4) failing to provide off-duty rest periods to and/or pay rest period premiums (5) failing to provide complete/accurate wage statements; (6) failing to pay all wages due upon termination; (7) failing to provide timely wages; (8) failing to pay for sick days (9) failing to pay all wages earned upon separation; (10) failing to keep all records; (11) failing to maintain accurate payroll records; (12) failing to reimburse business expenses; (13) failing to pay equal pay for substantially equal or similar work; (14) unfair business practices and unfair competition; (15) civil penalties pursuant to the California Labor Code Private Attorneys General Act of 2004 (as amended), California Labor Code §§ 2698 *et seq.* (“PAGA”) and (16) derivative penalties including those pursuant to PAGA.

Greenview and Illume deny all the allegations made in the Action, and they contend that they have complied at all times with California law and federal law. The Settlement is not an admission of

any wrongdoing by Greenview and/or Illume nor an indication that any law was violated. No court has ruled on the merits of the claims asserted in the Action. This means that there has been no finding by a court that *Greenview Farming, Inc. and Illume Agriculture, LLC* engaged in any wrongdoing, or that employees were not paid fully and lawfully.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you are a Class Member (as defined above) and received this Notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment. If you do nothing you will receive a share of the settlement amount, and you will release the claims described in Section V below.

I. INTRODUCTION

This “NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR COURT APPROVAL” (“NOTICE”) is to inform you of the Settlement of this Action and your legal rights under the Class Action and PAGA Settlement (the “Settlement Agreement”).

The Court has granted preliminary approval of the Settlement and the Court ordered this Notice be sent to you because you may be a Settlement Class Member entitled to money under the Settlement and because the Settlement affects your legal rights.

II. DESCRIPTION OF THE LAWSUIT

A. Summary of Litigation

On May 17, 2021, a class action complaint was filed by Jorge Diaz and Jose Fidel Celio (collectively, “Plaintiffs”) against Defendants in the Kern County Superior Court, Case No. BCV-21-101000, on behalf of themselves and all others similarly situated. After an exchange of relevant information, the Parties agreed to participate in private mediation before a mediator to try to resolve the claims alleged in the Action. On November 15, 2022, the Parties attended a mediation session with an experienced employment law mediator, Kelly Knight, Esq. The Parties reached an agreement to resolve the wage and hour class and PAGA representative claims alleged in the Action that is memorialized in the Settlement Agreement that is on file with the Court, and whose terms are generally summarized in this Class Notice.

B. Position of the Parties

The Court has not ruled on the merits of Plaintiffs’ claims. The Court has determined only that certification of the Settlement Class for settlement purposes is appropriate under California law. By approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this Action if it went to trial. However, to avoid additional expense, inconvenience, and risks of continued litigation, Defendants and Plaintiffs have concluded that it is in their respective best interests and the interests of the Class Members to settle the Action on the terms memorialized in the Settlement Agreement on file with the Court, and whose terms are generally summarized in this Notice. After Defendants provided formal and informal discovery and information to counsel for the Class Members, the Settlement was reached after arms-length non-collusive negotiations between the parties, including mediation. In these negotiations, both sides recognized the

uncertainty and risk of further litigation and determined that the Settlement was a fair, reasonable and adequate way to resolve the disputed claims alleged in the Action.

1. Defendants have denied and continue to deny each of the allegations in the Action and the operative Complaint, and any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action or the operative Complaint, and have asserted various defenses to these claims and allegations. Defendants contend that they have complied at all times with California law and federal law and with all of their legal obligations to the Class Members and all of the Class Members have been compensated in compliance with applicable law. Neither the Settlement nor any action taken to carry out the Settlement mean that Defendants admit any fault, wrongdoing, or liability whatsoever. To the contrary, Defendants deny all fault, wrongdoing, and liability. Although Defendants believe that they have meritorious defenses to the allegations and claims in the Action and the operative Complaint, Defendants have concluded that further litigation would be protracted and expensive for all parties, and would also divert resources and management and employee time. Defendants have agreed to settle this Action in the manner and upon the terms set forth in the Settlement Agreement to put to rest all claims that are or could have been asserted against them in the Action.
2. The Plaintiffs and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

C. Preliminary Approval of the Settlement

Under this Settlement, the following Settlement Class will be certified under California law:

All individuals who are or were employed by Greenview Farming, Inc. as a non-exempt employee or in a similar position at Illume Agriculture, LLC in California at any time during the period from May 3, 2017 through the date of preliminary approval and worked at least one shift in California for or on behalf of Greenview at Illume from May 3, 2017 through the date of preliminary approval (“Class Members”).

Plaintiffs Jorge Diaz and Jose Fidel Celio and their counsel, Farrah Mirabel, Esq. of Law Offices of Farrah Mirabel, PC and Amir Seyedfarshi, Esq. of Employment Rights Law Group, APC, (“Class Counsel”), believe that the Settlement described below is fair, adequate, reasonable and in the best interests of Plaintiffs and the Class.

On [insert date of preliminary approval], the Court preliminarily approved the Settlement and conditionally certified the Settlement Class. This Notice is being sent to you because Greenview’s records indicate that you were employed by Greenview as a non-exempt employee or in a similar position at Illume during the Class Period.

IF YOU ARE STILL EMPLOYED BY DEFENDANTS, THIS SETTLEMENT WILL NOT AFFECT YOUR EMPLOYMENT.

Defendants will not take adverse action against or otherwise target, retaliate, or discriminate against

any Class Member because of the Class Member's participation or decision not to participate in this Settlement.

III. TERMS OF THE SETTLEMENT

In exchange for the release of claims against them and final judgment on the Action, Defendants have agreed to pay an amount not to exceed \$365,000.00 (the "Gross Settlement Amount") to fully and finally resolve all the claims that were alleged or could have been alleged in Plaintiffs' Action and the operative Complaint, as further described below. The Parties agreed to the following payments from the Gross Settlement Amount:

Settlement Administration Costs. The Court has approved Phoenix Class Action Solution Inc. to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, up to \$30,000.00 will be paid from the Gross Settlement Amount to pay the Settlement Administration Costs.

Attorneys' Fees and Expenses. Class Counsel – which includes attorneys from Law Offices of Farrah Mirabel, P.C., and Employment Rights Law Group, APC – who have been prosecuting Plaintiff's Action on behalf of Plaintiffs and the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. To date, the parties have aggressively litigated many aspects of the Action including settlement efforts and a full day mediation session. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will collectively ask for fees of 35% (*i.e.*, \$127,750.00) of the Gross Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in Plaintiffs' Action. Class Counsel also will ask for reimbursement for the actual costs Class Counsel incurred in connection with Plaintiffs' Action in an amount up to \$15,000.00, which will be paid from the Gross Settlement Amount.

Service Payment to Named Plaintiffs and Class Representatives. Class Counsel will ask the Court to award Named Plaintiffs and Class Representatives Jorge Diaz and Jose Fidel Celio an Incentive Award up to \$10,000.00 for each named Plaintiff, for a maximum aggregate total of \$20,000.00, which will be paid from the Gross Settlement Amount, for their efforts and risks provided on behalf of the Class Members. The Class Representative also may receive a share of the Settlement as a Class Member.

PAGA Payment. Class Counsel will ask the Court to approve a PAGA penalty allocation of \$18,250.00 from the Gross Settlement Amount, 75% of which shall be paid the State of California and 25% of which shall be distributed to certain individuals in the Class who worked for Defendants from April 1, 2020, through the Preliminary Approval Date ("PAGA Period"). These payments are being made pursuant to California's the Private Attorney Generals Act.

Net Settlement Amount. After deducting the amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount for distribution pro rata to the Class Members.

You can view the Settlement Agreement and other Court documents related to this Action by visiting [xxxxxxx](#).

IV. YOUR INDIVIDUAL SHARE OF THE SETTLEMENT AMOUNT

Each Class Participant (a Class Member who does not timely opt-out of the Settlement) shall be eligible to receive payment of the Individual Settlement Amount, which is a share of the Net Settlement Amount based on the pro rata number of workweeks worked by the Class Members during the Class Period as a proportion of all workweeks by all Class Members. For purposes of this calculation, a workweek means a workweek during the Class Period where a Class Member worked for Greenview at Illume in California in a non-exempt job position. If any Class Member opts-out of the Settlement, his/her share will be distributed to Class Participants. The 25% of the PAGA Payment for Class Members who worked during the PAGA Period will be distributed to the Class Members pro rata based on pay periods worked during the PAGA Period. These amounts shall be in addition to the Individual Settlement Portions described above. Since PAGA penalties are claims owned by the State of California, there shall be no right to opt-out of the PAGA Payment portion of the Settlement.

Twenty Percent (20%) of each Individual Settlement Amount shall constitute wages subject to withholdings (and each Class Participant will be issued a Form W-2 for such payment to him or her); Eighty-Five Percent (80%) of each Individual Settlement Amount shall constitute penalties, liquidated damages, and interest (and each Class Participant will be issued an IRS Form 1099 for such payment to him or her). Class Participants are solely responsible for, and will hold the Released Parties (defined below) harmless from any claim arising from any and all tax liability accruing from the receipt of these settlement payments. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

The workweeks you worked for Greenview at Illume in California in a non-exempt job position during the Class Period will be calculated based on Greenview's records. If you feel that you were not credited with the correct number of workweeks worked during the Class Period, you may submit evidence to the Settlement Administrator on or before *[insert date]* with documentation to establish the number of workweeks you claim to have actually worked during the Class Period. **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Parties and Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks should be credited, if any. The Settlement Administrator will make the final decision as to how many workweeks are credited, if any, and report the outcome to the Class Participant.

You can view the final approval order and final judgment and payment schedule [at www.XX.com/xxxxxxx](http://www.XX.com/xxxxxxx).

V. THE RELEASE OF CLAIMS

If the Court grants final approval of the Settlement, the Court will enter judgment and the Settlement Agreement will bind all members of the Settlement Class who have not timely opted out of the Settlement, and will bar all Class Members from bringing any of the Released Claims against Defendants or any of the Released Parties as described below.

Upon the date Defendants fund the Gross Settlement Amount, each Settlement Class Member who has not submitted a timely Opt-Out request, shall fully release and forever discharge the Released Parties from any and all Released Claims during the Class Period.

“Released Claims” shall mean any and all claims, debts, liabilities, demands, obligations, actions, causes of action, guarantees, liens, promises, penalties, costs, expenses, interest, restitution, attorneys’ fees and costs, losses, damages, liquidated damages, punitive damages, equitable relief, or complaints of whatever kind or nature, whether known or unknown, contingent or accrued, asserted or unasserted, patent or latent, against Defendants or the Released Parties (defined below) or any of them, under any state, municipal or federal law, statute, ordinance, regulation, order or common law principle or theory, arising out of or related to the claims, causes of action, and/or allegations set forth in the Action, the Complaint and/or Plaintiffs’ PAGA notice to the LWDA including, but not limited to: (1) for failure to provide rest breaks and/or pay rest break premiums in accordance with applicable law including, but not limited to, Labor Code Sections 226.7, 512 and/or 1198, and/or the Applicable Wage Orders; (2) for failure to provide meal periods and/or pay meal period premiums in accordance with applicable law including, but not limited to, Labor Code Sections 226.7, 512, and/or 1198 and/or the Applicable Wage Orders; (3) for failure to pay overtime wages in accordance with applicable law including, but not limited to, Labor Code Sections 510 and/or 1194 and/or the Applicable Wage Orders; (4) for failure to pay for sick leave in accordance with applicable law including, but not limited to, Labor Code Section 246; (5) for failure to pay minimum wages in accordance with applicable law including, but not limited to, Labor Code Sections 204, 1194, and/or 1197 and/or the Applicable Wage Orders; (6) for failure to pay all wages earned in accordance with applicable law including, but not limited to, Labor Code Sections 204, 1194, and/or 1197 and/or the Applicable Wage Orders; (7) for failure to maintain accurate employment records in accordance with applicable law including, but not limited to, Labor Code Sections 226, 1174, and/or 1198.5 and the Applicable Wage Orders; (8) for failure to provide accurate wage statements in accordance with applicable law including, but not limited to, Labor Code Section 226 and/or the Applicable Wage Orders; (9) for failure to pay wages upon separation in accordance with applicable law including, but not limited to, Labor Code Sections 201, 202, and/or 203; (10) for waiting time penalties; (11) for failure to reimburse business expenses in accordance with applicable law including, but not limited to, Labor Code Sections 2802 and/or 2804; (12) for failure to pay equal pay for substantially equal or similar work in accordance with the California Fair Pay Act, Labor Code Sections 1197.5 and 1199.5; (13) for unfair competition and/or deceptive, fraudulent, or otherwise unlawful business practices in violation of California’s Unfair Competition Law, Business and Professions Code Sections 17200, *et seq.*; (14) penalties pursuant to the PAGA; (15) all other statutory penalties, including those recoverable under the California Unfair Competition Act, and in particular, California Business and Professions Code Sections 17200, *et seq.*; the California Code of Civil Procedure Section 1021.5; and any other provision of the California Labor Code, including but not limited to Labor Code Sections 2698, *et seq.*, or any Applicable Wage Orders, in all their iterations; (16) all claims, causes of action, theories of liability and allegations that were alleged in the Action or that could have been alleged in this action based on the facts, legal theories, or causes of action alleged in the Action; and (17) any and all other claims rights, demands, liabilities, penalties, causes of action, or related claims for liquidated damages, fees, penalties, attorneys’ fees, costs, expenses, and/or interest based on the foregoing or with respect hereto or resulting from the foregoing. The Release Period shall be the Class Period.

“Released Parties” shall mean and refer to Greenview Farming, Inc. and Illume Agriculture, LLC and all of their respective former, present, and/or future, direct or indirect, employees, managers,

supervisors, officers, directors, owners, members, agents, partners, managers, representatives, administrators, fiduciaries, trustees, insurers, attorneys, assigns, benefit plans, parent companies, subsidiaries, affiliates, shareholders, predecessors, and/or successors in interest, and related entities; and any individual or entity which could be jointly liable with any of the foregoing.

Class Members who do not opt out will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Settlement payments constitute payment of all sums allegedly due to them. Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Settlement payments. That section provides in pertinent part as follows:

“An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.”

VI. WHAT ARE YOUR OPTIONS?

A. Do Nothing and Receive Your Portion of the Settlement

You are automatically included as a Class Participant and will receive a Settlement payment and do not have to take any further action to receive your Settlement payment. It is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or a Settlement payment. The estimated amount of your Settlement payment if you do nothing is included on the attached Share Form.

B. Opt-Out and Be Excluded from the Class and the Settlement Except for the PAGA Component of the Settlement

If you **do not** wish to take part in the Settlement, you may exclude yourself (i.e., opt-out) by sending to the Settlement Administrator a timely and valid written request for exclusion in the form of a letter or postcard postmarked no later than *[insert date]*. If you exclude yourself from the Settlement, you will no longer be a Class Member and will not receive payment of any Individual Settlement Amount.

The request for exclusion must contain (1) your name, address, and telephone number; (2) your signature; (3) the case name and number (*Jorge Diaz and Jose Fidel Celio v. Greenview Farming, Inc and Illume Agriculture, LLC*, Case No. BCV-21-101000); and (4) the following language:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE JORGE DIAZ AND JOSE FIDEL CELIO V. GREENVIEW FARMING, INC. AND ILLUME AGRICULTURE, LLC LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE.”

To be timely, the request for exclusion must be mailed directly to the Settlement Administrator at the following address, and **be postmarked no later than [Insert opt-out date]**:

[Insert ADDRESS]

Requests for exclusion that are postmarked after the Response Deadline above will not be accepted.

Class Members who worked during the PAGA period do not have a right to opt-out, object or otherwise exclude themselves from the PAGA portion of the Settlement and will be covered by the release of claims for civil penalties under the PAGA summarized in section V, above.

A Class Member, other than a Class Member that worked during the PAGA Period, who submits a valid and timely opt-out request form, or request for exclusion from the Class Action Settlement shall, upon receipt, no longer be a Class Member, and shall be barred from participating in any portion of the Settlement. A Class Member who worked during the PAGA Period and who submits a valid and timely opt-out request form, or request for exclusion from the Class Action Settlement will still receive his or her pro-rata portion of the PAGA Payment. If you want confirmation of receipt of your Opt-Out or request for exclusion, please send it by U.S. certified mail, return receipt requested and/or contact the Settlement Administrator.

C. Object to the Settlement

Class Members who have not requested to be excluded from the Settlement also have the right to object to the terms of the Settlement. The court will consider any and all objections lodged up to the Final Approval Hearing. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Class Settlement, you must submit a written objection to the Settlement Administrator, at [Insert ADDRESS], and **be postmarked no later than [Insert deadline]** and must file with the Court, and serve on all parties a written statement of objection. Only Class Participants may object to the Settlement. The objection must include the case name and number and must set forth, in clear and concise terms, a statement of the reasons why the objector believes that the Court should find that the proposed Class Settlement is not in the best interest of the Settlement Class and the reasons why the Class Settlement should not be approved, including the legal and factual arguments supporting the objection. If you also wish to appear at the Final Approval and Fairness Hearing, in person or through an attorney, you need not file a notice of intention to appear at the same time as the objection is filed. You have the right to retain your own attorney, at your own expense, to submit an objection or appear on your behalf at the Final Approval Hearing.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as Class Members who do not object.

D. Your Right to Appear at the Final Approval and Fairness Hearing Through an Attorney or In Person

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for [Insert DATE], at [Insert Time] a/p.m. in Department 17 of the Superior Court of California, County of Kern, Hall of Justice, located at 1415 Truxtun Avenue, Bakersfield, California 93301. You can find the Final Approval Hearing on the Court's online calendar:

https://_____. You have the right to appear either in person or through your own attorney at this hearing at your own expense. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before [Insert DATE Mailing]. All objections or other correspondence must state the name and number of the case, which is JORGE DIAZ and JOSE FIDEL CELIO V. GREENVIEW FARMING, INC. and ILLUME AGRICULTURE, LLC, Case No. BCV-21-101000.

VII. UPDATE FOR YOUR CHANGE OF ADDRESS

If you move after receiving this Notice or if it was misaddressed, please complete the Change of Address portion of the attached Share Form and mail it to the Settlement Administrator, Phoenix Class Action Solution Inc. at _____, as soon as possible. **THIS IS IMPORTANT SO THAT FUTURE NOTICES AND/OR THE SETTLEMENT PAYMENT REACH YOU.**

VIII. IF THE CLASS ACTION AND PAGA SETTLEMENT IS NOT APPROVED

If the Class Action and PAGA Settlement is not approved by the Court, or if any of its conditions are not satisfied, the conditional Settlement will be voided, no money will be paid, and the Action will return to litigation. If that happens, there is no assurance: (1) that the Class will be certified; (2) that any decision at trial would be in favor of Class Members; (3) that a trial decision, if any, would be as favorable to the Class Members as this Settlement; or (4) that any favorable trial decision would be upheld if an appeal was filed.

IX. QUESTIONS OR COMMENTS?

This Notice of Proposed Class Action Settlement is a summary of the basic terms of the Settlement. For the precise terms and conditions, of the Settlement, you may review the detailed Settlement Agreement on file with the Clerk of the Court. The pleadings and other records in this Action may be examined by contacting the Office of the Clerk of the Superior Court of California, County of Kern to schedule an appointment during regular business hours of each court day. The Office of the Clerk is located at Department 17 of the Superior Court of California, County of Kern, located at _____, California _____. The case file may also be viewed online at the court's website at http://www._____. In addition, the key Settlement documents may be viewed on the website established by the Settlement Administrator at http://www._____.

PLEASE DO NOT CALL OR CONTACT THE COURT. If you have any questions about the settlement, you may contact the Settlement Administrator at: _____ or by e-mail at _____. You may also contact Class Counsel at the address or phone numbers listed below.

THE ATTORNEYS REPRESENTING THE CLASS MEMBERS ARE:

LAW OFFICES OF FARRAH MIRABEL, PC
Farrah Mirabel, Esq.
fmesq@fmirabel.com
1070 Stradella Rd.
Los Angeles, CA 90077

Telephone: (714) 972-0707
Fax: (949) 417-1796

EMPLOYMENT RIGHTS LAW GROUP, APC
Amir Seyedfarshi, Esq.
amir@employmentrightslawgroup.com
6380 Wilshire Blvd., Suite 1602
Los Angeles, California 90048
Telephone: (424) 777-0964

THE ATTORNEYS REPRESENTING DEFENDANTS ARE:

BELDEN BLAINE RAYTIS, LLP
T. Scott Belden, Esq.
scott@bbr.law
Jazmine Flores, Esq.
jazmine@bbr.law
5016 California Avenue, Suite 3
Bakersfield, California 93309
Telephone: (661) 864-7826

EXHIBIT 2

Share Form

Settlement Class Member Workweeks and Estimated Settlement

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF KERN

Jorge Diaz and Jose Fidel Celio v. Greenview Farming, Inc. and Illume Agriculture, LLC

Case No. BCV-21-101000

All individuals who are or were employed by Greenview Farming, Inc. as a non-exempt employee or in a similar position at Illume Agriculture, LLC in the State of California during the period from May 3, 2017 through the date of preliminary approval ("Class Members").

Your Estimated Payment

Your total Individual Settlement Amount is currently estimated at \$_____, including any PAGA payment. Your estimated pro-rata share of the Net Settlement Amount (as defined in the accompanying Notice) is: \$_____. Your estimated pro-rata share may be more or less depending on factors such as, but not limited to, the number of Class Members who effectively exclude themselves from the Settlement, any adjustments to your dates of employment, rulings of the court related to fees, costs, the incentive award, and other factors.

Your estimated award is based on your pro-rata percentage of the Net Settlement Amount based on the number of **workweeks** that you worked while employed in a non-exempt position by Greenview Farming, Inc. at Illume Agriculture, LLC in California during the Class Period, as a percentage of all of the Class Members' workweeks worked during the Class Period. "Workweeks" means a week where a Class Member worked for Greenview Farming, Inc. at Illume Agriculture, LLC in California in a non-exempt job position for at least one shift. Greenview Farming, Inc.'s time keeping and payroll records show that during the Class Period (between *May 3, 2017 through the date of preliminary approval*), the total number of workweeks worked by you is _____.

YOU DO NOT NEED TO DO ANYTHING IN ORDER TO RECEIVE MONEY UNDER THE SETTLEMENT.

If you believe the total number of workweeks worked by you during the Class Period (listed above) is accurate, you do not need to take any further action in order to receive your Settlement payment.

TO CHALLENGE THE NUMBER OF WORKWEEKS THAT YOU WORKED WHILE EMPLOYED IN A NON-EXEMPT POSITION BY GREENVIEW FARMING, INC. AT ILLUME AGRICULTURE, LLC DURING THE CLASS PERIOD, YOU MUST SIGN AN SUBMIT THE SHARE FORM AND THE CHALLENGE PORTION OF THE FORM BELOW TO THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING ADDRESS AND BE POSTMARKED NO LATER THAN [DATE] ("Response Deadline"):

[INSERT ADDRESS]

CHALLENGE FORM

Important:

1. You do NOT have to complete this part of the Share Form if the total number of your workweeks for Greenview Farming, Inc. at Illume Agriculture, LLC during the Class Period as stated above is accurate.
2. If you do submit this form on or before the Response Deadline above, it is strongly recommended that you keep proof of timely mailing of this form until receipt of your Settlement payment.
3. If you change your mailing address, please provide your new mailing address to the Settlement Administrator. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your Settlement payment.

Check the box below ONLY if you wish to challenge the total number of your workweeks as stated above. For your challenge to be accepted, all fields on this Challenge Form must be complete and the Challenge Form must be mailed or emailed to the Settlement Administrator at the address above and be postmarked on or before [Insert date]:

- ☐ I wish to challenge the total number of my workweeks. I have included a written statement detailing what I believe to be the correct number of workweeks in which I performed work while employed in a non-exempt position by Greenview Farming, Inc. at Illume Agriculture, LLC in California during the Class Period (between *May 3, 2017 through the date of preliminary approval*). I have also included information and/or documentary evidence that support my challenge. I understand that by submitting this challenge I authorize the Settlement Administrator to review Greenview Farming, Inc.'s records and determine the validity of my challenge.

Signature

Name of Class Member _____ **[preprinted]**

Class Member ID Number (from address label): _____ **[preprinted]**

I believe that the correct number of workweeks in which I performed work while I was employed in a non-exempt position by Greenview Farming, Inc. at Illume Agriculture, LLC in California during the Class Period between *May 3, 2017 through the date of preliminary approval* is: _____

The following is a statement of my reasons and documentation to support this number of workweeks:

[Attach documentation and use separate page(s) as necessary]

Mail to:

insert address