

JAMES HAWKINS APLC

James R. Hawkins, Esq. (#192925)

Gregory Mauro, Esq. (#222239)

Michael Calvo, Esq. (#314986)

9880 Research Drive, Suite 200

Irvine, CA 92618

Tel.: (949) 387-7200

Fax: (949) 387-6676

Email: James@jameshawkinsaplc.com

Email: Greg@jameshawkinsaplc.com

Email: Michael@jameshawkinsaplc.com

Attorneys for Plaintiff GABRIEL DELGADO,
individually and on behalf of all others similarly situated

HILL, FARRER & BURRILL LLP

James A. Bowles (Bar No. 089383)

jbowles@hillfarrer.com

Richard S. Zuniga (Bar No. 102952)

rzuniga@hillfarrer.com

One California Plaza, 37th Floor

300 South Grand Avenue

Los Angeles, CA 90071-3147

Telephone: (213) 620-0460

Fax: (213) 624-4840

Attorneys for Defendant
BAKER COMMODITIES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

GABRIEL DELGADO, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

BAKER COMMODITIES INC., a
California Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No. 37-2021-00018865-CU-OE-CTL
Hon. Carolyn Caietti

**JOINT STIPULATION OF PAGA
SETTLEMENT AND RELEASE OF CLAIMS**

This Joint Stipulation of PAGA Settlement and Release of Claims ("Settlement," "Settlement Agreement" or "Agreement"), subject to the approval of the Court, that the Action and PAGA Released Claims shall be settled and resolved subject to the following terms and conditions set forth in this Settlement Agreement," is entered by and between Plaintiff Gabriel Delgado ("Plaintiff"), for himself and on behalf of the State of California and other Aggrieved Employees pursuant to the California Private Attorneys General Act, and Defendant Baker Commodities, Inc. ("Defendant" or "Baker") (collectively, the "Parties").

This Settlement Agreement shall be effective on the latter of: (a) the Court's final approval of the Settlement if no objections by or on behalf of Aggrieved Employees have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; (c) the final resolution of any appeal that has been filed ("Effective Date").

I. DEFINITIONS

Unless otherwise defined herein, the following terms, when used in this Settlement Agreement, shall have the following meanings:

1. "Action" means the matter entitled *Gabriel Delgado vs. Baker Commodities, Inc.*, San Diego County Superior Court Case No. 37-2021-00018865-CU-OE-CTL, and as set forth in Plaintiff's correspondence to the California Labor and Workforce Development Agency ("LWDA Letter") dated April 30, 2021.

2. "Aggrieved Employees" consist of all current and former non-exempt employees who worked at least one pay period for Baker Commodities, Inc. at any time during the PAGA Period, i.e., from July 2, 2020 to December 31, 2021.

3. "Defendant" or "Baker" means Baker Commodities, Inc.

4. "Complaint" means the operative complaint filed by Plaintiff in San Diego Superior Court in Case No. 21STCV09903.

5. "Court" or "San Diego County Superior Court" means the Superior Court of California for the County of San Diego.

6. "Defense Counsel" or "Counsel for Defendant" are James A. Bowles, Esq., Elissa

L. Gysi, Esq. and Richard S. Zuniga, Esq. of Hill, Farrer & Burrell, LLP, One California Plaza, 300 S. Grand Ave, 37th Floor, Los Angeles, California 90071.

7. "Employee PAGA Portion" is the amount to be distributed to the Aggrieved Employees, which shall consist of 25% of the PAGA Penalties Amount, as provided in Section III.3 herein.

8. "Employee Payments" refers to the PAGA Penalty Payments that will be distributed to Aggrieved Employees, as provided in Section III.3 herein.

9. "Gross Settlement Amount" is the sum of Two Hundred Thousand Dollars and Zero Cents (\$200,000.00), which represents the total amount payable under this Settlement Agreement by Defendant, and includes the Employee PAGA Portion payable to Aggrieved Employees, LWDA Payment payable to the LWDA, Court-awarded Attorneys' Fees (not to exceed \$66,666.67) to Plaintiff's Counsel, Court-awarded Litigation Costs (not to exceed \$20,000.00) to Plaintiff's Counsel, Court-awarded Enhancement Payment (not to exceed \$10,000.00) to Plaintiff, and a Court-awarded payment to the Settlement Administrator for Settlement Administration Costs (not to exceed \$10,000.00).

10. "LWDA" means the California Labor and Workforce Development Agency.

14. "LWDA Payment" means the amount to be paid to the LWDA, which is seventy-five percent (75%) of the PAGA Penalties Amount as set forth in Section III.3 herein.

11. "Plaintiff's Counsel" means James Hawkins, Esq., Gregory Mauro, Esq. and Michael Calvo, Esq. of James Hawkins, APLC.

12. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts are subtracted from the Gross Settlement Amount: (a) Attorneys' Fees to Plaintiff's Counsel; (b) Litigation Costs to Plaintiff's Counsel; (c) Enhancement Payment to Plaintiff; and (d) Settlement Administration Costs to Settlement Administrator.

13. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

15. "PAGA Period" means the time period from July 2, 2020 through December 31,

2021.

16. "PAGA Released Claims" means any and all claims, to recover civil penalties pursuant to PAGA alleged in the operative complaint in the Action and in the LWDA Letter for civil penalties during the PAGA Period, and any and all claims that could have been premised on the facts, claims, or legal theories described in the operative complaint in the Action and the LWDA Letter from the alleged (1) failure to pay wages including overtime; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to timely pay wages; (5) failure to provide accurate itemized wage statements; (6) failure to accurately record and pay sick leave; (7) payment of wages in a non-labor code compliant instrument; and (8) failure to indemnify necessary business expenses, including any related claims for attorneys' fees, costs, or interest resulting therefrom.

17. "Released Parties" mean Baker Commodities, Inc. and its past, present, and future owners, officers, directors, employees, board members, shareholders, attorneys, insurers, reinsurers, customers, partners, investors, members, representatives, predecessors, parent companies, subsidiaries, affiliates, divisions, successors, agents and principals, and their heirs, estates, executors, administrators, servants, insurers, attorneys, and assigns.

18. "Settlement Administrator" means ILYM, Inc., a third-party administrator who shall administer the settlement, subject to approval by the Court, in accordance with this Settlement Agreement, and whose costs and expenses to administer the settlement are currently estimated not to exceed \$10,000 ("Settlement Administration Costs").

II. RECITALS

1. In April 2021, Plaintiff provided written notice to the LWDA and Baker and amended the written notice to the LWDA and Baker on April 30, 2021, asserting claims for civil penalties pursuant to Labor Code sections 2698 and 2699 ("PAGA") stemming from alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226(e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, and 2802.

2. On April 28, 2021 Plaintiff filed a class action complaint in the Superior Court of California, County of San Diego, Case No. 21STCV09903, entitled *Gabriel Delgado vs. Baker*

1 *Commodities, Inc.*, San Diego County Superior Court Case No. 37-2021-00018865-CU-OE-CTL
2 alleging violations of the Labor Code and Unfair Competition Law for: (1) failure to pay wages
3 including overtime; (2) failure to provide meal periods; (3) failure to provide rest periods; (4)
4 failure to timely pay wages; (5) failure to provide accurate itemized wage statements; (6) failure
5 to accurately record and pay sick leave; (7) payment of wages in a non-labor code compliant
6 instrument; (8) failure to indemnify necessary business expenses, and (9) for unfair competition.

7 On July 14, 2021, Plaintiff filed a First Amended Complaint to add a cause of action for civil
8 penalties under PAGA. Plaintiff then dismissed the class and individual claims, and filed a
9 Second Amended Complaint on July 27, 2021 with a single cause of action for PAGA penalties.

10 3. On October 18, the Parties participated in a day-long mediation with mediator
11 Steven Mehta, Esq. In preparation for the mediation, Plaintiff's counsel requested and
12 Defendant's counsel provided sample time and payroll data for the purported Aggrieved
13 Employees, personnel and employment documents. With Mr. Mehta's assistance, the Parties
14 agreed to fully and finally resolve the Action and the PAGA Released Claims as to Plaintiff, the
15 State of California, the LWDA and the Aggrieved Employees.

16 **III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT**

17 The Parties agree as follows:

18 1. **Non-Admission.** Nothing in this Settlement Agreement nor action taken in
19 implementation thereof shall be construed to be an admission or concession by Plaintiff that his
20 claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved
21 Employees, or any other person, and Defendant specifically disclaims any such liability or
22 wrongdoing. Nor will any of the foregoing be used in any way in any other judicial, arbitral,
23 administrative, investigative or other forum or proceeding, as evidence of any violation of any
24 federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation
25 or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be
26 used in any court proceeding that has as its purpose the interpretation, implementation, or
27 enforcement of the settlement or any orders or judgments of the Court entered into in connection
28 therewith. The Parties have entered into this Settlement Agreement with the intention to avoid

1 further disputes and litigation with the attendant inconvenience, expenses, and risks. This
2 Settlement Agreement and any related Court documents or orders are not and may not be cited or
3 admitted as evidence of liability. If the Court does not grant approval of this settlement, then the
4 Parties revert to their previous positions and Republique will contend that a representative action
5 is not appropriate.

6 2. **Gross Settlement Amount.** Baker shall pay \$200,000.00 as the Gross Settlement
7 Amount. Baker will not pay more than the Gross Settlement Amount. Baker represents that there
8 are approximately 16,763 pay periods worked by Aggrieved Employees in California ("Affected
9 Pay Periods") from the July 2, 2020 to October 8, 2021. If the actual number of Affected Pay
10 Periods from July 2, 2020 to October 8, 2021 is more than 10% greater than this number (i.e., if
11 there are more than 18,439 Affected Pay Periods from July 2, 2020 to October 8, 2021, Baker
12 shall increase the Gross Settlement Amount in proportion to the increase in Affected Pay Periods
13 over 16,763 (e.g., if the number of Affected Pay Periods from July 2, 2020 to October 8, 2021 is
14 12% greater than 16,763, Baker will increase the Gross Settlement Amount by 2%)). In the event
15 that the escalator clause is triggered, the Parties shall cooperate to obtain an amended judgment
16 which reflects the increased Gross Settlement Amount.

17 Baker shall deposit the Gross Settlement Amount with the Settlement Administrator
18 within 30 days of the Effective Date.

19 3. **Net Settlement Amount.** The Parties agree that the Net Settlement Amount shall
20 be distributed to the LWDA and Aggrieved Employees as follows: Seventy-five percent (75%) of
21 the Net Settlement Amount shall be distributed to the LWDA (i.e., the LWDA Payment) and
22 twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the Aggrieved
23 Employees on a *pro rata* basis, based on their respective number of pay periods worked for Baker
24 during the PAGA Period. Each Aggrieved Employee will be paid a non-wage check for their
25 Employee Payment, and will receive an IRS Form 1099 for said payment.

26 4. **Attorneys' Fees Payment and Litigation Costs Payment.** Baker will not oppose
27 Plaintiff's request for an award of attorneys' fees in the amount up to \$66,666.67 ("Attorneys'
28 Fees") and litigation costs and expenses in the amount up to \$20,000.00 incurred in prosecuting

1 this Action ("Litigation Costs"), to Plaintiff's Counsel. In the event the Court approves a
2 payment of less than \$66,666.67 for Attorneys' Fees and/or less than \$20,000.00 for Litigation
3 Costs to Plaintiff's Counsel, the difference will be a part of the Net Settlement Amount. The
4 Attorneys' Fees and Litigation Costs payments will be reported on an IRS Form 1099 issued to
5 Plaintiff's Counsel. Except as set forth in this Paragraph, the Parties shall each bear their own
6 attorneys' fees and costs.

7 5. **Plaintiff's Individual Release of All Claims.** Baker will not oppose Plaintiff's
8 request for an Enhancement Payment in the amount up to \$ 10,000 as a general release fee in
9 connection with the release and waivers provided by Plaintiff, in his individual capacity
10 ("General Release Fee"). In the event the Court approves a payment of less than \$10,000 as a
11 General Release Fee award to Plaintiff, the difference will be a part of the Net Settlement
12 Amount. The General Release Fee will be reported on an IRS Form 1099 issued to Plaintiff.

13 6. **Settlement Administration Costs.** Baker will not oppose Plaintiff's request for
14 payment in the amount up to \$7,370 to the Settlement Administrator for administering the
15 settlement. In the event the Court approves a payment of less than \$7,370 for Settlement
16 Administration Costs, the difference will be a part of the Net Settlement Amount. Settlement
17 Administration Costs will be reported on an IRS Form 1099 issued to the Settlement
18 Administrator.

19 7. **Plaintiff's Release of Claims and Waiver of California Civil Code section**
20 **1542.** In consideration of payment under the settlement, and upon the Effective Date and payment
21 of all funds due under this Settlement, Plaintiff for himself only shall be deemed to release the
22 Released Parties from any and all PAGA Claims and any other claims that he may have against
23 the Released Parties, including and not limited to, all complaints, claims, liabilities, obligations,
24 promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands,
25 costs, losses, debts, and expenses (including attorneys' fees and costs actually incurred, other than
26 as otherwise provided herein) of any nature whatsoever, known or unknown, suspected or
27 unsuspected, including, but not limited to, any claim for damages related to Plaintiff's
28 employment with Baker or the Released Parties, the separation of his employment, rights arising

out of alleged violations of any contracts, express or implied, any covenant of good faith and fair dealing, express or implied, or any tort including defamation, any claim of wrongful termination, retaliation, or wage and hour violations, or any legal restrictions of Defendant's right to terminate employees, or any federal, state or other governmental statute, regulation or ordinance, including, without limitation: (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Government Code; (4) section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California Constitution; and (8) the California Labor Code, which Plaintiff now has, owns or holds, or claims to have, own or hold, or which Plaintiff at any time heretofore had, owned or held, or claimed to have owned or held against any of the Released Parties relating to any conduct occurring prior to and including the date of execution of this Settlement Agreement (collectively, "Plaintiff's Released Claims"). Plaintiff represents that he is not aware of any claims he may have against the Released Parties other than the PAGA Claims. As a material inducement for Baker to enter into this settlement, Plaintiff waives any and all rights and benefits conferred by the provisions of section 1542 of the California Civil Code and any similar law of any state or territory of the United States or other jurisdiction. Section 1542 of the California Civil Code provides as follows:

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

Plaintiff understands and acknowledges that this Settlement Agreement is meant to include, to the fullest extent, all PAGA Claims and other claims which Plaintiff does not know or suspect to exist in his favor against the Released Parties.

8. **PAGA Released Claims.** Upon the Effective Date and payment of all funds due under this Settlement, Plaintiff, Aggrieved Employees, the State of California and the LWDA will

be forever barred from pursuing any and all PAGA Released Claims defined in Section I.16 herein against Defendant and the Released Parties. Upon entry of the Order approving the settlement and judgment entered thereon, Plaintiff, the State of California, the LWDA and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against Defendant and the Released Parties. The PAGA Released Claims only covers those civil penalties which are recoverable under PAGA alleged in the operative complaint in the Action and in the LWDA Letter for civil penalties during the PAGA Period, and does not otherwise cover individual, underlying claims or causes of action that Aggrieved Employees other than Plaintiff may have under the law against Released Parties for violations of the California Labor Code.

9. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.** Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understands his rights, privileges, and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

10. **Limited Disclosure and No Publicity.** Except as provided below, to the extent necessary to effectuate the settlement or as required by the PAGA statute, a court of law, or legal process, neither Plaintiff nor Plaintiff's Counsel will publicize the terms of this Settlement Agreement or issue a press release, hold a press conference, publish information about the settlement on any website or through any social media, or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court.

11. **Obligation of Plaintiff's Counsel to Submit Settlement Agreement to the LWDA.** To permit judicial review and approval of the PAGA Payment, as required by Labor Code section 2698, et seq., Plaintiff's Counsel will file the Settlement Agreement with the Court and submit the Settlement to the LWDA as part of the parties' seeking Court approval of the

Settlement, per Lab. Code § 2699(1)(2).

12. **Filing of Joint Stipulation of Settlement by Plaintiff's Counsel.** Plaintiff's Counsel shall be responsible for preparing the Joint Stipulation for Approval of the Settlement ("Stipulation") and providing Defendant's Counsel with sufficient opportunity to propose revision to the Stipulation prior to filing. Plaintiff's Counsel will file the Stipulation, which is mutually agreed to by the Parties, as soon as practicable. Plaintiff's Counsel will serve the Stipulation on Defendant's Counsel. Pursuant to California Labor Code section 2698, *et seq.*, Plaintiff's Counsel shall undertake all required submissions and disclosures to the Court to obtain approval of the Settlement. The Stipulation and order approving the Settlement shall include a provision that the Action is dismissed with prejudice, which shall constitute a final and binding resolution of Plaintiff's claims herein.

Should the Court not allow approval of the Settlement by Stipulation, Plaintiff's Counsel shall be responsible for preparing and filing a motion for court approval of the Settlement. Plaintiff's counsel shall provide Defendant's Counsel with sufficient opportunity to propose revisions to the motion prior to its filing with the court.

13. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement, in which case the Settlement Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement. However, if the Court declines to approve the Settlement Agreement as drafted, the Parties agree to attempt in good faith to amend the Settlement Agreement to resolve the Court's concerns with the Settlement Agreement, before either Party terminates the Settlement Agreement.

14. **Judgment.** As part of the Joint Stipulation of Settlement to approve the

Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement, and enjoins the prosecution of any of the PAGA Released Claims against Baker and the Released Parties. The judgment will release and bar Plaintiff's Released Claims and the PAGA Released Claims as to Plaintiff, the State of California, and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. Settlement Administrator. The Parties have mutually selected ILYM, Inc. to handle the administration of this settlement, subject to approval by the Court.

2. Notice to Aggrieved Employees.

a. No later than fourteen (14) days after the Effective Date, Defendant shall provide the Settlement Administrator with a list of the Aggrieved Employees (the "Aggrieved Employees List"). The Aggrieved Employees List shall include each Aggrieved Employee's full name, last known mailing address, total pay periods worked for Baker in California during the PAGA Period, and Social Security number, to the extent available from Baker's records. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and shall only access and use the list to administer the settlement in conformity with the Court's orders. Baker will in good faith compile from its records the Aggrieved Employees List and provide it to the Settlement Administrator in a computer-readable format, such as a Microsoft Excel spreadsheet.

No later than twenty-one (21) calendar days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will mail the Employee Payments under cover letter, substantially in the form attached hereto as "Exhibit A" ("Cover Letter"), to each of the Aggrieved Employees identified on the Aggrieved Employees List. Prior to mailing the Cover Letter, the Settlement Administrator shall check the addresses provided in the Aggrieved Employees List using the United States Postal Service's National Change of Address database, and update the addresses for known address changes.

Should any of the mailings to the Aggrieved Employees of their Cover Letter and Employee Payments be returned as undeliverable within thirty (30) calendar days of mailing, the Settlement Administrator will have five (5) calendar days after it receives the returned undeliverable mail to search for a more current address for the Aggrieved Employee (via a skip trace or other reasonable method) and re-mail the Cover Letter and Employee Payments to any alternative or updated address obtained by the Settlement Administrator.

The Settlement Administrator shall distribute payments for the General Release Fee, the Attorneys' Fees, the Litigation Costs, the Settlement Administration Costs, the Employee Payments, and the LWDA Payment within thirty (30) calendar days after the Gross Settlement Amount is deposited with the Settlement Administrator. All payments provided for by this Settlement Agreement shall be made by the Settlement Administrator in accordance with this Settlement Agreement and the Court's order approving this settlement.

Each Aggrieved Employee will be issued one check for his or her Employee Payment which will expire one hundred and eighty (180) calendar days from the date the checks are issued by the Settlement Administrator. After the 180 day-period, the Settlement Administrator shall cancel all checks that have not been cashed or deposited and remit funds associated with such canceled checks to the State Controller's Office, Unclaimed Property Division, in the name associated with each Aggrieved Employee whose Employee Payment checks are canceled.

V. MISCELLANEOUS PROVISIONS

1. **No Impact on Employee Benefit Plans.** Neither the Settlement Agreement nor any amounts paid to Plaintiff, any Aggrieved Employee, or the LWDA under the settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Baker. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Baker's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going-forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any Baker benefit plan, policy, or bonus program. Baker retains the right, if necessary, to modify the

language of its benefit plans, policies, and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for “hours worked,” “hours paid,” “hours of service,” or any similar measuring term as defined by applicable plans, policies, and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

2. **Tax Consequences.** Plaintiff and Aggrieved Employees will be solely responsible for correctly characterizing any compensation received under the settlement on his/her personal income tax returns for tax purposes, and paying all appropriate taxes due for any and all amounts paid to them under the settlement. Plaintiff, Baker, Plaintiff’s Counsel, and Defendant’s Counsel make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied upon as such.

3. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of San Diego.

4. **Entire Agreement.** This Settlement Agreement constitutes the entirety of the Parties’ settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the Action and PAGA Released Claims.

5. **Judgment and Continued Jurisdiction.** The Parties agree that this Settlement

1 Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure
2 section 664.6, and the Court, to the fullest extent of the law, shall retain exclusive and continuing
3 jurisdiction over this Action, over all Parties, and the Aggrieved Employees to interpret and
4 enforce the terms, conditions, and obligations of the Settlement Agreement.

5 6. **Amendment or Modification.** This Settlement Agreement may be amended or
6 modified only by a written instrument, signed by either the Parties or their successors-in-interest
7 or counsel for all Parties, subject to approval by the Court.

8 7. **Authorization to Enter into Binding Settlement Agreement.** Defendant
9 represents and warrants that the undersigned has the authority to act on behalf of Baker and to
10 bind Baker to the terms of this Settlement Agreement. Plaintiff represents and warrants that he
11 has the capacity to act on his own behalf and on behalf of all who might claim through him to
12 bind him to the terms and conditions of this Settlement Agreement. Counsel for all Parties
13 warrant and represent that they are expressly authorized by the Parties whom they represent to
14 negotiate this Settlement Agreement and to take all appropriate action required or permitted to be
15 taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute
16 any other documents required to effectuate the terms of this Settlement Agreement. The Parties
17 warrant that they understand and have full authority to enter into this settlement, and further
18 intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and
19 agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms,
20 notwithstanding any settlement and/or mediation privileges and/or confidentiality provisions that
21 otherwise might apply under federal or state law.

22 8. **Binding on Successors and Assigns.** This Settlement Agreement will be binding
23 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
24 defined.

25 9. **Execution and Counterparts.** This Settlement Agreement may be executed in
26 one or more counterparts. All executed counterparts, and each of them, including facsimile and
27 scanned copies of the signature page, will be deemed to be one and the same instrument provided
28 that counsel for the Parties will exchange among themselves original signed counterparts.

1 10. **Acknowledgement of Mutual Drafting and that the Settlement is Fair,**
2 **Adequate, and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate,
3 and reasonable settlement of the Action, and have arrived at this settlement after arm's-length
4 negotiations by experienced counsel. The Parties further acknowledge that they are each
5 represented by competent counsel and that they have had an opportunity to consult with their
6 counsel regarding the fairness and reasonableness of this settlement. The Parties agree that the
7 terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-
8 length negotiations and that neither Party shall be considered the "drafter" of this Settlement
9 Agreement for purposes of having terms construed against that Party. The Parties have had a full
10 opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly,
11 this Settlement Agreement will not be construed more strictly against one Party merely by virtue
12 of the fact that it may have been prepared by counsel for one of the Parties, it being recognized
13 that, because of the arm's-length negotiations between the Parties, all Parties have contributed to
14 the preparation of this Settlement Agreement.

15 11. **Invalidity of Any Provision.** Before declaring any provision of this Settlement
16 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
17 extent possible consistent with applicable precedents, so as to define all provisions of this
18 Settlement Agreement valid and enforceable.

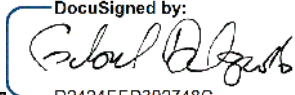
19 12. **Severability.** If any term or provision of this Settlement Agreement is held to be
20 invalid or unenforceable, provided that the essential terms and conditions of this Settlement
21 Agreement for each Party remain valid, binding and enforceable, the remaining portions of this
22 Settlement Agreement will continue to be valid, and will be performed, construed, and enforced
23 to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed
24 amended and limited in accordance with the intent of the Parties, as determined from the face of
25 the Settlement Agreement, to the extent necessary to permit the maximum enforceability or
26 validation of the term or provision.

27 13. **No Waiver.** No waiver of any condition or covenant contained in this Settlement
28 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered

to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right, or remedy.

14. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

Dated: 2/24/2022

DocuSigned by:

 D2424EED392748C...
 Gabriel Delgado

BAKER COMMODITIES, INC.

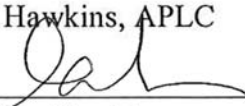
Dated: 2-24-2022


 By: Jeff Wilson
 Its: VP-General Counsel

APPROVED AS TO FORM:

Dated: 02-25-2022

James Hawkins, APLC

By: 
 James Hawkins
 Gregory Mauro
 Michael Calvo
 Attorneys for Plaintiff, Gabriel Delgado

HILL, FARRER & BURRILL LLP
 A LIMITED LIABILITY PARTNERSHIP
 ATTORNEYS AT LAW
 ONE CALIFORNIA PLAZA, 37TH FLOOR
 300 SOUTH GRAND AVENUE
 LOS ANGELES, CALIFORNIA 90071-3147

HILL, FARRER & BURRILL LLP
A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
ONE CALIFORNIA PLAZA, 37TH FLOOR
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071-3147

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2 Dated: 2/24/22

HILL, FARRER & BURRILL, LLP

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4 By:

James A. Bowles

Elissa L. Gysi

Richard S. Zuniga

Attorneys for Defendant, Baker Commodities, Inc.

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