

1                                    **SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS**

2            Plaintiffs Angel Caballero Morales and Fernando Torres (hereinafter collectively “Plaintiffs”),  
3 individually and in their capacity as representatives of the State of California on behalf of other  
4 aggrieved employees, and Defendant Northgate Gonzalez Markets, Inc. (hereinafter “Defendant” or  
5 “Acosta”), hereby enter into this Settlement Agreement and Release of Private Attorneys General Act of  
6 2004 claims (“Settlement” or “Agreement”) as follows:

7            **I.        DEFINITIONS**

8            As used in this Settlement, the following terms shall have the following meanings:

9            1.        “Action” shall mean the civil action entitled *Morales, et al. v. Northgate Gonzalez*  
10 *Markets, Inc.*, filed on or about May 24, 2021, in Los Angeles Superior Court, Case No. 21STCV19587.

11           2.        “Defendant” shall mean Northgate Gonzales Markets, Inc.

12           3.        “Defense Counsel” shall mean Corinne D. Spencer, Esq. and Antwoin D. Wall, Esq. of  
13 Pearlman, Brown & Wax, L.L.P.

14           4.        “Effective Date” means the later of: (a) the date that approval of the Settlement is  
15 granted by the Superior Court of California for the County of Los Angeles, or other court assuming  
16 jurisdiction of this matter; (b) if any timely objections or intervenor requests are filed and not  
17 subsequently withdrawn, the 60th day after the Court enters an Order or Judgment approving of this  
18 PAGA Settlement; or (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any  
19 such appeal in a way that does not alter the material terms of the Settlement.

20           5.        “LWDA” refers to the California Labor & Workforce Development Agency.

21           6.        “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, California  
22 Labor Code Sections 2698, *et seq.*

23           7.        “PAGA Period” shall mean the period from May 24, 2020, through either April 15,  
24 2022, or the date that the Court grants approval this Settlement, whichever occurs earlier.

25           8.        “PAGA Members” shall mean all current and former hourly non-exempt employees of  
26 Defendant in California at any time during the PAGA Period.

27           9.        “PAGA Fund” shall mean the Total Settlement Payment, less Plaintiffs’ Counsel  
28 Payment, Plaintiffs’ Enhancement Awards, the Settlement Administrator Costs, and any other Court

mandated or approved deductions.

10. "Plaintiffs" refers to Angel Caballero Morales and Fernando Torres, individually and in their capacity as representatives of the State of California on behalf of other aggrieved employees.

11. "Plaintiffs' Counsel" collectively refers to Jonathan Melmed, Esq. and Kyle D. Smith, Esq. of Melmed Law Group P.C. and Mehrdad Bokhour, Esq. of Bokhour Law Group, P.C.

12. "Parties" collectively refers to Plaintiffs and Defendant.

13. "Released Claims" shall mean any and all claims, whether known or unknown, that were asserted or could have been asserted based on the facts set forth in the operative pleading in the Action and/or notice submitted to the LWDA in connection with the Action, to recover civil penalties pursuant to PAGA for any alleged violations by Defendant, including without limitation California Labor Code §§ 201-203, 204, 210, 221, 226, 226(a), 226(e), 226.3, 226.7, 510, 512, 515, 558, 1194, 1197.1, 1199, 2802, California Industrial Commission Wage Orders, and California Code of Regulations Title 8, section 11050, 11000 *et seq.* which arose during the PAGA Period.

14. "Released Parties" shall mean Defendant Northgate Gonzalez Markets, Inc., including its subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and assigns.

15. "Settlement Administrator" shall mean a neutral third-party settlement administrator to be mutually selected by the Parties.

16. "Total Settlement Payment" shall mean an amount not to exceed Five Hundred Twenty Fifty Thousand Dollars and Zero Cents (\$950,000.00).

## **II. RECITALS**

17. On or about May 24, 2021, Plaintiffs sent a letter to the LWDA on behalf of themselves and other aggrieved employees in compliance with California Labor Code section 2699.3 ("PAGA Notice"). Plaintiffs seek to represent themselves and all PAGA Members. The LWDA did not indicate that it intended to investigate the alleged violations referenced in the letter, and the 65-day time period permitted for the LWDA to provide such a notification expired. The LWDA has not indicated that it intends to investigate the alleged violations referenced in the supplemental PAGA Notice.

18. On May 24, 2021, Plaintiffs filed this matter in Los Angeles Superior Court alleging the same Labor Code violations set forth in his PAGA Notice.

1           19. On August 16, 2021, Plaintiffs filed a First Amended Complaint in Los Angeles  
2 Superior Court alleging the claims raised in the PAGA Notice.

3           20. On December 16, 2021, and again on February 14, 2022, the Parties participated in  
4 private mediation before an experienced wage and hour mediator, Steve Serratore. Through the  
5 mediator's and the Parties' efforts in mediation, the parties were able to reach a settlement of the Action,  
6 the terms of which have been formalized in this Agreement.

7           21. Counsel for all Parties have thoroughly investigated the facts relating to the claims  
8 alleged in the operative complaint and engaged in significant informal discovery in advance of  
9 mediation. Based on their investigation and evaluation of this case, Plaintiffs' Counsel have concluded  
10 that the settlement is fair, reasonable, and adequate considering all known facts and circumstances,  
11 including the defenses asserted by Defendant, the risks and uncertainties associated with ongoing  
12 litigation, the potential inability for the Action to proceed to trial as a PAGA representative action,  
13 potential adverse findings regarding liability, the statutory discretion provided to the Court to decrease  
14 civil penalties under PAGA, and numerous potential appellate issues.

15           22. Defendant specifically denies, and continues to deny, each and every claim and  
16 contention alleged in the Action and has always maintained that it has never engaged in any unlawful  
17 acts regarding any of the matters alleged in the Action. Defendant further asserts that the Action cannot  
18 manageably proceed to trial as a PAGA representative action.

19           **NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions set  
20 forth, the Parties agree as follows:

21           **III. NON-ADMISSION OF LIABILITY**

22           23. Based on the factual and legal issues involved, the expense and time necessary to  
23 prosecute the Action, the risks, uncertainty, and costs of further prosecution, the existence of arbitration  
24 agreements with express class waiver clauses, the difficulty of proof necessary to establish a PAGA  
25 representative action for purposes of liability, and the relative benefits to the PAGA Members of an  
26 expeditious resolution of the Action, the Parties have concluded that the terms set forth in this  
27 Settlement are fair, reasonable, adequate, and in the best interests of the PAGA Members.

28           24. By entering into this Settlement, Defendant denies any liability for any of the claims in

1 the Action, as well as any other potential or unknown claims based on wage and hour violations under  
2 state or federal law. Neither this Settlement, nor any document referred to or contemplated herein, nor  
3 any action taken to carry out this Settlement, is, may be construed as, or may be used as, an admission,  
4 concession, or indication by or against Defendant of any unlawful conduct, fault, wrongdoing or liability  
5 whatsoever. Defendant specifically denies that it engaged in any unlawful or wrongful conduct against  
6 Plaintiffs and/or the PAGA Members. Rather, Defendant maintains it always complied with applicable  
7 laws governing wages and hours of work for its employees.

#### 8 **IV. TERMS OF THE PAGA SETTLEMENT**

##### 9 **A. *The Total Settlement Payment***

10 25. Defendant shall pay a Total Settlement Payment in a total amount of Nine Hundred Fifty  
11 Thousand Dollars and Zero Cents (\$950,000.00).

12 26. The Total Settlement Payment shall include Plaintiffs' Counsel Payment, Enhancement  
13 Award to Plaintiffs, Settlement Administrator Costs, and the PAGA Fund. Subject to the limited  
14 escalator provision in Paragraph 28, in no event shall Defendant be required to pay more than the Total  
15 Settlement Payment in connection with the Settlement.

16 27. Defendant shall provide the Total Settlement Payment to the Settlement Administrator  
17 within sixty days of the Effective Date.

18 28. Defendant represents that there are approximately 467,000 pay periods in the PAGA  
19 Period. If the actual number of pay periods during the PAGA Period is more than five percent (5%)  
20 greater than 23,350 pay periods (*i.e.*, greater than 490,350), the Total Settlement Payment will be  
21 increased by the percentage difference between the 5% increase and the actual number of pay periods  
22 (*i.e.*, if there is a 12% difference, the Total Settlement Payment will increase by 7%).

##### 23 **B. *Enhancement Awards To Named Plaintiffs***

24 29. Subject to Court approval, Plaintiffs shall seek a payment of Seven Thousand Five  
25 Hundred Dollars, each (\$7,500.00), subject to Court approval, to be paid from the Total Settlement  
26 Payment, as an enhancement for their services as the PAGA representatives and execution of a general  
27 release with respect to Defendant ("Enhancement Award"), in addition to any payment they may  
28 otherwise receive as a PAGA Member.

1           30. Defendant will not oppose Plaintiffs' request for the Enhancement Award. Plaintiffs  
2 will be responsible for characterizing this compensation for tax purposes and for paying any taxes owing  
3 on said amount. The Enhancement Awards approved by the Court and issued to Plaintiffs will, if  
4 required by law, be reported on an IRS Form 1099 to Plaintiffs. The Parties agree that a reduction by  
5 the Court of the requested Enhancement Awards does not constitute a material alteration of the terms of  
6 this Agreement and shall not provide a basis for rendering the Settlement void or unenforceable. Any  
7 reductions by the Court of the Enhancement Awards shall revert to the PAGA Fund.

8           31. Release by Named Plaintiffs:

9           In addition to the Released Claims identified in Paragraph 13, Plaintiffs agrees to release any  
10 and all claims, whether known or unknown, under all federal, state and local statutes, and federal  
11 and state common law (including but not limited to those for contract, tort, and equity), including,  
12 without limitation, the California Unfair Competition Act (California Business and Professions  
13 Code section 17200, *et seq.*) and the California Labor Code against the Released Parties. Plaintiffs  
14 acknowledges the language of Section 1542 of the California Civil Code, which provides:

15                   A general release does not extend to claims that the creditor or releasing  
16                   party does not know or suspect to exist in his or her favor at the time of  
17                   executing the release and that, if known by him or her, would have  
18                   materially affected his or her settlement with the debtor or released party.

19           Plaintiffs expressly waive the protection of Section 1542. Plaintiffs understand and agree that  
20 claims or facts in addition to or different from those which are now known or believed by Plaintiffs to  
21 exist may hereafter be discovered. It is plaintiffs' intention to settle fully and release all claims plaintiffs  
22 now has against the Released Parties, whether known or unknown, suspected or unsuspected. plaintiffs  
23 expressly acknowledge that the release in this Paragraph is intended to include in its effect, without  
24 limitation, all claims plaintiffs did not know or suspect at the time of execution hereof, regardless of  
25 whether the knowledge of such claims, or the facts upon which they might be based, would materially  
26 have affected the settlement of this matter, and that the consideration given under this Settlement is also  
27 for the release of those claims and contemplates the extinguishment of any such claims.

1           **C.     *Plaintiffs' Counsel Payment of Attorneys' Fees and Costs***

2           32.     Plaintiffs' Counsel will apply to the Court for an award of attorneys' fees not to exceed  
3 one-third (1/3) of the Total Settlement Payment, which is Three Hundred Sixteen Thousand Six  
4 Hundred Sixty-Six Dollars and Sixty Seven Cents (\$316,666.67). Plaintiffs' Counsel will also seek  
5 reimbursement of reasonable litigation costs not to exceed Twenty-Five Thousand Dollars (\$25,000.00)  
6 (Plaintiffs' Counsel's attorneys' fees and reasonable litigation costs are collectively referred to as the  
7 "Plaintiffs' Counsel Payment"). Plaintiffs' Counsel will submit declarations in support of their request  
8 for Plaintiffs' Counsel Payment.

9           33.     Defendant will not oppose or object to Plaintiffs' Counsel Payment and any request or  
10 application for attorneys' fees and costs submitted in connection therewith.

11           34.     In the event that the Court does not approve the requested Plaintiffs' Counsel Payment,  
12 or the Court alters the attorneys' fees and litigation costs sought by Plaintiffs' Counsel, the Parties agree  
13 that any modifications or reductions by the Court of the requested Plaintiffs' Counsel Payment (whether  
14 in the aggregate or individually) does not constitute a material alteration of the terms of this Agreement  
15 and shall not provide a basis for rendering the Settlement void or unenforceable.

16           35.     Plaintiffs' Counsel Payment shall be paid from the Total Settlement Payment. Any  
17 reductions by the Court of Plaintiffs' Counsel's request for attorneys' fees or costs shall revert to the  
18 PAGA Fund in the event Plaintiffs' Counsel elect not to seek appellate review of the Court's order  
19 awarding a lower amount of attorneys' fees sought.

20           **D.     *Settlement Administration Fees and Costs***

21           36.     Settlement administration shall be done by the qualified, third-party Settlement  
22 Administrator agreed to by the Parties and approved by the Court. The Parties agree that the Settlement  
23 Administrator Costs shall be paid from the Total Settlement Payment. This includes all fees and costs  
24 for postage, envelopes, and computer searches to locate addresses, expenses of the Settlement  
25 Administrator to implement and complete the settlement process according to the terms of this  
26 Settlement, to calculate payments to individual PAGA Members, any cost associated with the  
27 escheatment process for any uncashed or undeliverable settlement checks, to prepare any necessary tax  
28 documents, and any other related fees and costs associated with the administrative duties associated with

1 the Settlement (the "Settlement Administrator Costs").

2 37. The Settlement Administrator Costs shall be paid from the Total Settlement Payment.  
3 The Settlement Administrator Costs are estimated by Plaintiffs' Counsel to not exceed Twenty-Five  
4 Thousand Dollars (\$25,000.00). Any reductions by the Court or any unused Settlement Administrator  
5 Costs shall revert to the PAGA Fund.

6 ***E. PAGA Fund***

7 38. After deducting the Plaintiffs' Counsel Payment, Plaintiffs' Enhancement Awards, and  
8 Settlement Administrator Costs, the remainder of the Total Settlement Payment shall be allocated to the  
9 LWDA and PAGA Members (the "PAGA Fund").

10 39. Seventy-five percent (75%) of the PAGA Fund will be sent to the LWDA ("LWDA  
11 Payment") and twenty-five percent (25%) of the PAGA Fund will be allocated among the PAGA  
12 Members ("PAGA Member Payment"), based on his or her proportionate share of pay periods during  
13 the PAGA Period as set forth in Section V(B.).

14 **V. COMPUTATION AND DISTRIBUTION OF TOTAL SETTLEMENT FUND**

15 ***A. Deposit of Total Settlement Payment***

16 40. The Settlement Administrator shall establish a Qualified Settlement Fund ("QSF") for  
17 purposes of administering the Settlement. The Settlement Administrator shall furnish the QSF with its  
18 own Employer ID Number and calculate all settlement checks required under law based on information  
19 that will be confidentially furnished by Defendant. There are no payroll deductions to be calculated  
20 under this Settlement since no part of the Settlement will be classified as wages.

21 ***B. Formula for Calculating Share of PAGA Fund***

22 41. The pro-rata portion of the PAGA Fund that is paid to each PAGA Member shall be  
23 determined based on the following formula:

24 (a) The payment to PAGA Members will be based on the number of pay periods that each  
25 PAGA Member performed work for Defendant during the PAGA Period.

26 (b) The amount to be paid per pay period for each PAGA Member will be calculated by  
27 dividing the number of pay periods that the PAGA Member performed work for Defendant during the  
28 PAGA Period by the total aggregate number of pay periods all PAGA Members performed work for

1 Defendant during the PAGA Period. The PAGA Member's percentage of the PAGA Period will then  
2 be multiplied by the PAGA Member Payment to arrive at the PAGA Member's pro rata share.

3 (c) Defendant's records shall be determinative for purposes of calculating the number of pay  
4 periods and any payments to PAGA Members. The Settlement Administrator shall be responsible for  
5 calculating each individual PAGA Member's respective pro-rata settlement payment.

6 **C. Distribution of PAGA Fund**

7 42. Pursuant to an order by the Court specifically compelling Defendant to do so (in light of  
8 the California Consumer Privacy Act and the California Privacy Rights Act), Defendant shall provide  
9 the Settlement Administrator with a list of the names, addresses and number of pay periods each of the  
10 PAGA Members performed work for Defendant during the PAGA Period within thirty (30) days after  
11 the Court issues an Order approving the Settlement. The contact information shall be provided  
12 confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the  
13 information as private and highly confidential and take all necessary precautions to maintain the  
14 confidentiality of contact information of the PAGA Members. This information is to be used only to  
15 carry out the Settlement Administrator's duties as specified in this Settlement, shall not be shared with  
16 Plaintiffs' Counsel, and shall be destroyed promptly once the Settlement Administrator has completed  
17 its delineated duties.

18 43. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully  
19 funded, whichever is later, the Settlement Administrator shall pay to the LWDA an amount equivalent  
20 to seventy-five percent (75%) of the PAGA Fund, or as otherwise directed by the Court.

21 44. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully  
22 funded, whichever is later, the Settlement Administrator shall distribute to PAGA Members their  
23 individual portion of the PAGA Fund (the "Individual Payment"), or as otherwise directed by the Court.  
24 A letter approved by the Parties will be included in the mailing of the Individual Payment to each  
25 PAGA Member.

26 45. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully  
27 funded, whichever is later, the Settlement Administrator shall distribute the Plaintiffs' Enhancement  
28 Award.

1           46.     Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully  
2 funded, whichever is later, the Settlement Administrator shall distribute to Plaintiffs' Counsel the court-  
3 approved Plaintiffs' Counsel Payment.

4           47.     The Settlement Administrator will send the Individual Payments to the PAGA Members  
5 by First Class U.S. Mail.

6           48.     To provide the best notice and delivery of Individual Payments practicable, any  
7 Individual Payment returned to the Settlement Administrator as non-delivered shall be sent by First  
8 Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is provided  
9 for an Individual Payment that is returned as non-deliverable, the Settlement Administrator shall use the  
10 best available technology accessible (e.g., skip tracing, address verification, etc.) to the Settlement  
11 Administrator or other mutually agreeable method to locate PAGA Members and will then mail the  
12 Individual Payment to the address identified by First Class U.S. Mail. If no valid address is located, the  
13 Individual Payment for that individual will be deemed undeliverable. If any PAGA Members cannot be  
14 located within two attempts at mailings by the Settlement Administrator, the Individual Payment for that  
15 individual will be deemed undeliverable.

16           49.     The Settlement Administrator shall maintain a list of the postmark date for the original  
17 mailing of the Individual Payment to the PAGA Members, the postmark date of any subsequent mailing  
18 to any PAGA Members, and a list of PAGA Members who did not receive the Individual Payment due  
19 to the inability to locate a valid address using the procedures described herein or who otherwise could  
20 not be located within two attempts at mailing.

21           50.     All Individual Payment checks will remain valid and negotiable for 180 days from the  
22 date of their initial mailing by the Settlement Administrator. After 180 days from the date of their  
23 mailing by the Settlement Administrator, any uncashed checks will be void. For any PAGA Member  
24 whose funds are undeliverable and/or who does not cash or negotiate her or his Individual Payment  
25 check within 180 days, the uncashed funds shall be distributed to the Controller of the State of  
26 California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et*  
27 *seq.* for the benefit of the PAGA Member(s) who did not cash their checks until such time that they  
28 claim their property, or the property is otherwise disposed of pursuant to the Unclaimed Property

1 Laws. The Settlement Administrator will send Defense Counsel a list of any such uncashed checks  
2 seven days prior to distributing those uncashed funds to the Controller.

3 51. The Settlement Administrator will prepare and issue any tax forms required by law,  
4 including any IRS Form 1099s to PAGA Members, Plaintiffs, and Plaintiffs' Counsel.

5 52. The Settlement Administrator shall also prepare any accounting, declaration of  
6 completion of distribution of settlement funds, or other settlement administrative task required by the  
7 Court to effectuate the Settlement.

8 ***D. Settlement Administration Payment***

9 53. Within thirty (30) days after the Effective Date or the Total Settlement Payment is fully  
10 funded, whichever is later, the Settlement Administrator shall deduct an amount equivalent to the  
11 Settlement Administrator Costs.

12 **VI. RELEASED CLAIMS**

13 ***A. Claims Released by Plaintiffs, the LWDA, and the State of California***

14 54. Upon the Effective Date, the LWDA, the State of California, Plaintiffs and PAGA  
15 Members fully release and forever discharge the Released Parties from any and all Released Claims.

16 ***B. Tax Treatment and Tax Indemnification***

17 55. PAGA Members, including Plaintiffs, will assume any tax obligations or consequences  
18 which may arise from this Settlement. PAGA Members, including Plaintiffs, release any and all claims  
19 that they have or may have against Defendant for any claims, demands, deficiencies, levies,  
20 assessments, executions, judgments, penalties, taxes, indemnification, and any other recoveries related  
21 to any payments made under this Settlement or any compensation provided at any time by Defendant or  
22 any of the Released Parties. If any state or federal taxing authority contacts, investigates, or pursues any  
23 action against any PAGA Members, including Plaintiffs, for their individual share of taxes related to any  
24 payments made under this Settlement or any compensation provided at any time by Defendant or any of  
25 the Released Parties, each PAGA Member, including Plaintiffs, shall be responsible for their own  
26 defense of and payment for any claim of unpaid taxes, interest, or penalties brought by any state or  
27 federal taxing authority for the PAGA Settlement Member's share of any state or federal tax obligation.  
28 PAGA Members agree to hold Defendant and any of the Released Parties harmless and fully indemnify

1 Defendant and any of the Released Parties for any costs, assessments, penalties, taxes, and/or attorneys'  
2 fees, which Defendant and any of the Released Parties may incur arising out of any and all claims made,  
3 sought or imposed by the I.R.S., the California Franchise Tax Board, and/or any other federal, state or  
4 local taxing board and/or agency in regard to any amounts due, or claimed to be due, by the PAGA  
5 Member, if any, to such authority or agency as a result of the tax treatment of the payment described  
6 above. If a PAGA Member has questions about any liability to any state or federal taxing authority,  
7 they shall contact the Settlement Administrator. The PAGA Members, including Plaintiffs, shall not  
8 contact Defendant, any of the Released Parties, or Defense Counsel regarding this Settlement or its tax  
9 consequences. Nothing herein shall be deemed to constitute tax advice or guidance.

10 56. Any payment to PAGA Members pursuant to this Settlement will not result in additional  
11 benefit payments, such as 401(k) or bonus payments.

## 12 **VII. MISCELLANEOUS PROVISIONS**

### 13 ***A. Nullification of Settlement Agreement.***

14 57. In the event that: (a) the Court does not approve the Settlement as provided herein; (b)  
15 the Court strikes, modifies, or does not approve any material term of this Agreement; or (c) the  
16 Settlement does not become final as written and agreed to by the Parties for any other reason, then this  
17 Agreement, and any documents generated to bring it into effect, will be null and void, all amounts  
18 deposited into the QSF will be returned to Defendant, and the Parties shall be returned to their original  
19 respective positions. The Parties' agreement to a representative PAGA Member group is for purposes of  
20 Settlement only, therefore, if the Settlement is nullified or void, so too, is the agreement to treat this as a  
21 representative action. Should such a nullification occur each of the Parties shall be referred to her, his,  
22 its or their respective positions as if this Agreement did not exist. Pursuant to California Evidence Code  
23 § 1152, this Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or  
24 enforce this Agreement. If this Agreement is not approved or does not become Effective (as defined by  
25 the Effective Date), the Parties agree that this Settlement Agreement is void, and remains protected by  
26 California Evidence Code § 1152.

### 27 ***B. Mutual Full Cooperation***

28 58. Plaintiffs and Defendant, Plaintiffs' Counsel, and Defense Counsel agree to fully

1 cooperate with each other to accomplish the terms of this Settlement, including, but not limited to,  
2 execution of such documents and to take such other action as may reasonably be necessary to implement  
3 the terms herein. The Parties agree to use their best efforts and any other efforts that may become  
4 necessary by Order of the Court, or otherwise, to effectuate this Settlement.

5 **C. *Parties' Authority***

6 59. The signatories hereto represent that they are fully authorized to enter into this  
7 Settlement.

8 **D. *Binding Nature of the Settlement***

9 60. This Settlement shall be binding upon, and inure to the benefit of, the successors or  
10 assigns of the Released Parties. Plaintiffs represents, covenants, and warrants that they have not directly  
11 or indirectly, assigned, transferred, or encumbered any claim, demand, action, cause of action or rights  
12 released in the Released Claims in this Settlement. This Settlement also shall be binding upon Plaintiffs,  
13 the PAGA Members, the State of California, and the LWDA.

14 61. This Settlement may be amended or modified only by a written instrument. No rights  
15 under this Settlement may be waived except in writing.

16 62. This Settlement constitutes the entire agreement between Plaintiffs and Defendant  
17 relating to the terms contained herein. All prior or contemporaneous agreements, understandings, and  
18 statements, whether oral or written, whether express or implied, and whether by a party or its counsel,  
19 concerning this Settlement are merged herein. No oral or written representations, warranties or  
20 inducements have been made to any party concerning this Settlement or its exhibits other than the  
21 representations, warranties and covenants contained and memorialized in such documents.

22 63. Paragraph titles or captions contained herein are inserted as a matter of convenience and  
23 for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any of its  
24 provisions. Each term of this Settlement is intended to be contractual and not merely a recital.

25 **E. *Joint Drafting of Settlement Documents***

26 64. Plaintiffs' Counsel and Defense Counsel have arrived at this Settlement as a result of a  
27 series of arm's-length negotiations, including two full-day mediations with experienced wage and hour  
28 mediator Steve Serratore, Esq., and counsel have taken into account all relevant factors, present and

1 potential risks with ongoing litigation.

2         65. This Settlement has been drafted jointly by Plaintiffs' Counsel and Defense Counsel  
3 and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed  
4 against any of the Parties.

5         ***F. Execution of the Settlement***

6         66. This Agreement may be executed in any number of counterparts, any of which shall be  
7 deemed to be the original if fully executed by both Parties. This Agreement may be executed and  
8 delivered by facsimile or email and, when fully executed and delivered, this Settlement and photocopies  
9 thereof shall be legally binding and enforceable as the original. If an electronic signature is utilized by  
10 any signatory to this Agreement the Party and/or our counsel utilizing the electronic signature  
11 acknowledge that the electronic signature is binding pursuant to California Civil Code section 1633.1, *et*  
12 *seq.* (the "Uniform Electronic Transactions Act") and that it was obtained by the person for whom it  
13 appears, and appropriate measures were taken to protect the security and authenticity of the signatory.

14         ***G. Continuing Jurisdiction of the Court***

15         67. Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that the  
16 Court shall retain jurisdiction over the Parties, and over this Settlement, in order to: (i) monitor and  
17 enforce compliance of Settlement, and/or (ii) resolve any disputes over this Settlement or the  
18 administration of the benefits of this Settlement.

19         ***H. Invalidity of Any Provision***

20         68. Before declaring any provision of this Agreement invalid, the Court will first attempt to  
21 construe the provision as valid to the fullest extent possible consistent with applicable precedents so as  
22 to define all provisions of this Agreement valid and enforceable.

23         ***I. No Collateral Attack***

24         69. This Agreement shall not be subject to collateral attack by any PAGA Member after the  
25 Effective Date. Such prohibited collateral attacks shall include but not be limited to claims that the  
26 PAGA Member failed for any reason to receive notice of the settlement and/or her or his Individual  
27 Payment. PAGA Members do not have the right to object or opt out of the Settlement.

1           ***J.       Notifications to the LWDA***

2           70.     Plaintiffs' Counsel shall notify the LWDA of the Settlement at the same time that it is  
3 submitted to the Court and take all other steps required to effectuate the Settlement under Labor Code  
4 Section 2699(l).

5           ***K.       Representations by Plaintiffs***

6           71.     Plaintiffs acknowledges the following:

7           (a)     Plaintiffs have carefully read and fully understand all of the provisions of this  
8 Settlement;

9           (b)     Plaintiffs knowingly and voluntarily agree to all of the terms set forth in this Settlement  
10 and have not been coerced, threatened, or intimidated into executing this Settlement;

11          (c)     Plaintiffs were advised, and hereby are advised in writing, to consider the terms of this  
12 Settlement and consult with their attorneys before signing this Settlement; and

13          (d)     Other than the fees and costs awarded pursuant to the terms of this Settlement, Plaintiffs  
14 acknowledge that all Parties shall bear their own fees and costs through the conclusion of the Actions.

15 ***L.       Representations by Defendant***

16          72.     Defendant acknowledges the following:

17          (a)     Defendant has carefully read and fully understand all of the provisions of this  
18 Settlement;

19          (b)     Defendant knowingly and voluntarily agrees to all of the terms set forth in this  
20 Settlement and have not been coerced, threatened, or intimidated into executing this Settlement;

21          (c)     Defendant was advised, and hereby is advised in writing, to consider the terms of this  
22 Settlement and consult with its attorneys before signing this Settlement.

23          (d)     Other than the fees and costs awarded pursuant to the terms of this Settlement,  
24 Defendant acknowledges that all Parties shall bear their own fees and costs through the conclusion of  
25 this Action.

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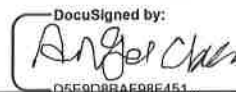
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1           **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this  
2 Settlement Agreement and Release of PAGA Claims as of the date(s) set forth below:

3 **AGREED TO BY PLAINTIFFS AS TO FORM AND CONTENT:**

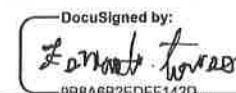
4 DATED: March <sup>3/9/2022</sup>\_\_\_\_, 2022

ANGEL CABALLERO MORALES, individually and  
on behalf of other aggrieved employees

DocuSigned by:  
  
D5E9D8BAF08F451...

7 DATED: March <sup>3/13/2022</sup>\_\_\_\_, 2022

FERNANDO TORRES, individually and on behalf of  
other aggrieved employees

DocuSigned by:  
  
0B8A6B2EDFF142D...

NORTHGATE GONZALEZ MARKETS, INC.

13 DATED: March \_\_\_\_, 2022

By: \_\_\_\_\_  
Title: \_\_\_\_\_

15 **AGREED TO BY PLAINTIFFS' COUNSEL:**

**MELMED LAW GROUP P.C.**

18 DATED: March 14, 2022

  
Jonathan Melmed

Attorney for Plaintiffs and the Aggrieved Employees

**BOKHOUR LAW GROUP, P.C.**

21 3/14/2022

23 DATED: March \_\_\_\_, 2022

  
Mehrdad Bokhour

Attorney for Plaintiffs and the Aggrieved Employees



1 APPROVED AS TO FORM TO BY DEFENDANT'S COUNSEL:

2 PEARLMAN, BROWN & WAX, L.L.P.

3

4 DATED: March 14, 2022

  
Corinne D. Spencer, Esq.

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Antwain D. Wall, Esq.

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Attorneys for Defendant Northgate Gonzalez

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