

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

PERFECTO CHAVEZ GONZALEZ,
individually and on behalf of others similarly
situated,

Plaintiff,

vs.

NIEVES LANDSCAPE INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 21STCV15266

*Assigned for all purposes to: Hon. Carolyn B.
Kuhl, Dept. 12*

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: April 22, 2021
Trial Date: None Set

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff Perfecto Chavez Gonzalez (“Plaintiff”), individually and on behalf of all other similarly situated and alleged aggrieved employees, and as a representative of the State of California on the one hand, and Defendant Nieves Landscape Inc. (“Defendant”) on the other hand in the lawsuit entitled *Perfecto Chavez Gonzalez v. Nieves Landscape Inc.*, filed in the Los Angeles County Superior Court, Case No. 21STCV15266. Plaintiff and Defendant shall be, at times, collectively referred to as the “Parties.” This Agreement is intended by the Parties to fully, finally and forever resolve the claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

RECITALS

WHEREAS on April 22, 2021, Plaintiff initiated this putative class action by filing a Complaint in the California Superior Court for the County of Los Angeles, entitled *Perfecto Chavez Gonzalez v. Nieves Landscape Inc.*, Los Angeles County Case No. 21STCV15266 on behalf of himself and all current and former non-exempt employees who worked for Defendant in California from April 22, 2017, to present, which asserts the following causes of action: (1) failure to pay overtime wages; (2) failure to provide compliant meal periods and pay meal period premiums; (3) failure to provide compliant rest periods and pay rest period premiums; (4) failure to pay minimum wages; (5) failure to timely pay all wages upon termination; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse necessary business expenses; and (8) unfair business practices (the “Complaint”). On September 7, 2021, Plaintiff initiated a complaint for civil penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Lab. Code, § 2698, et seq. entitled *Perfecto Chavez Gonzalez v. Nieves Landscape Inc.*, Los Angeles County Case No. 21STCV32969 (“PAGA Action”).

WHEREAS Defendant denies all material allegations set forth in the complaints and this Action and has asserted numerous affirmative defenses.

WHEREAS, the Parties have investigated the facts and analyzed the relevant legal issues with regard to the claims and defenses in the Action. Plaintiff’s Counsel’s investigation included,

inter alia, the exchange of information pursuant to informal discovery methods and review of numerous corporate policies and practices. Based on their investigation and analysis, Plaintiff believes the Action has merit, while Defendant believes the Action has no merit.

WHEREAS on June 22, 2023, the Parties participated in mediation before Jeffrey Krivis, Esq. (the “Mediator”), a respected mediator for wage and hour class actions. The settlement discussions were conducted at arm’s-length, and the settlement is the result of an informed and detailed analysis of Defendant’s potential liability of total exposure in relation to the costs and risks associated with continued litigation. Based on the documents produced, as well as Plaintiff’s Counsel’s own independent investigation and evaluation, and the Mediator’s efforts, Plaintiff’s Counsel believe that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate, and is in the best interest of the putative Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

WHEREAS in the interest of avoiding further litigation, the Parties agree to fully and finally and forever settle and dispose of all actual or potential claims by the putative Class Members. This Settlement Agreement is made and entered into by and between Plaintiff, individually and on behalf of all others similarly situated, and Defendant, and is subject to the terms and conditions hereof, and to the Court’s approval. The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

DEFINITIONS

1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class Action and PAGA Settlement.

2. “Action” means the court action entitled “*Perfecto Chavez Gonzalez v. Nieves Landscape Inc.*,” Los Angeles County Case No. 21STCV15266, initiated on or around April 22,

2021, the court action entitled “*Perfecto Chavez Gonzalez v. Nieves Landscape Inc.*,” Los Angeles County Case No. 21STCV32969, initiated on or around September 7, 2021, and the First Amended Complaint (as defined below) to be filed with leave to amend as a condition of this Settlement, as well as the claims asserted in Plaintiff’s correspondence of June 25, 2021, October 2, 2023, and October 10, 2023 to the Labor and Workforce Development Agency seeking penalties against Defendant for violations under the California Labor Code under the Private Attorneys General Act of 2004 (hereinafter the “LWDA Letter.”).

3. “Class Counsel” means Heather Davis, Amir Nayebdadash and Carlos Jimenez of Protection Law Group LLP. The term “Class Counsel” shall be used synonymously with the term “Plaintiff’s Counsel.”

4. “Class Counsel’s Fees and Costs” means attorneys’ fees for Class Counsel’s litigation and resolution of the Action and their expenses and costs incurred in connection with the Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request attorneys’ fees not to exceed thirty-five (35%) of the Gross Settlement Amount, *i.e.* Two Hundred and Ten Thousand Dollars and No Cents (\$210,000.00) and the reimbursement of reasonable costs and expenses associated with the litigation and settlement of the Action, not to exceed Thirty Thousand Dollars (\$30,000.00), subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of reasonable costs and expenses in the amount set forth above.

5. “Class List” means a complete list of all Class Members that Defendant will in good faith compile from their records and provide to the Settlement Administrator within Fourteen (14) calendar days after service (via email or otherwise) of the Order granting Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class Member’s: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; and (5) dates of employment (*i.e.*, hire dates, and, if applicable, re-hire date(s) and/or separation date(s)); (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other reasonable information required by the Settlement Administrator in order to effectuate the terms of the Settlement. .

1 6. “Class” or “Class Members” means all current and former non-exempt employees
2 of Nieves Landscape, Inc. employed in the state of California at any time during the Class Period.

3 7. “Class Period” means the period from July 1, 2017 through and ending on either
4 the date of Preliminary Approval, or ninety (90) days from the date of mediation (*i.e.*, September
5 20, 2023), whichever date occurs earlier.

6 8. “Class Representative” means Plaintiff Perfecto Chavez Gonzalez in his capacity
7 as a representative of the Class Members.

8 9. “Class Representative Enhancement Payment” means the amount that the Court
9 authorizes to be paid to Plaintiff in addition to his Individual Settlement Payment, in recognition
10 of the effort and risk he has taken in assisting with the prosecution of the Action and in exchange
11 for a General Release of his claims as provided herein, at no additional cost to Defendant.

12 10. “Court” means the Superior Court of the State of California for the County of Los
13 Angeles.

14 11. “Defendant” means Nieves Landscape, Inc.

15 12. “Effective Date” means the later of the following: (a) if no timely objections are
16 filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b)
17 if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being
18 filed; or (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such
19 appeal in a way that does not alter the terms of the settlement, shall be referred to as the “Effective
20 Date.” Defendant and Defendant’s counsel waive all rights to appeal the Final Approval Order.

21 13. “Employer Taxes” means employer-funded taxes and contributions imposed on the
22 wage portions of the Individual Settlement Payments under the Federal Insurance Contributions
23 Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions
24 required of employers, such as for unemployment insurance.

25 14. “Final Approval” means the date of final affirmation of the Court’s signed Order
26 and Judgment granting final approval of this Settlement.

27 15. “First Amended Complaint” means the amendment to the operative Complaint to
28 be filed 65 calendar days after the date of the second amended LWDA Letter dated October 10,

2023 provided that the LWDA does not provide notice of its intent to investigate. The First Amended Complaint shall include the same wage and hour theories asserted in the Complaint, and additional class allegations setting forth causes of action for unlawful receipt of wages (Labor Code § 221), and failure to pay timely wages (Labor Code § 210). Plaintiff shall further amend the operative Complaint to assert individual/representative claims pursuant to California's Private Attorneys General Act ("PAGA") (California Labor Code sections 2698, et. seq.) against Defendant for the same wage and hour theories asserted in the Complaint, PAGA Action and the LWDA Letter, including all applicable wage orders, and include additional PAGA claims for unlawful receipt of wages pursuant to Labor Code § 221 and the applicable wage orders, and failure to pay timely wages pursuant to Labor Code § 210 and the applicable wage orders, failure to pay reporting time and applicable wage orders, failure to provide paid sick leave (Labor Code § 246) and applicable wage order provisions, and failure to provide safety devices (Labor Code §§ 6401 and 6403 and applicable wage order provisions following proper submission of notice of the additional claims to the California Labor and Workforce Development Agency ("LWDA"). The Parties agree that once the First Amended Complaint is filed, Plaintiff will dismiss the PAGA Action (Case No. 21STCV32969) without prejudice.

16. "General Release" means the broader release of all claims by Plaintiff in the Action, which is in addition to Plaintiff's release of claims as a Participating Class Member.

17. "Gross Settlement Amount" means the total sum of Six Hundred Thousand Dollars and Zero Cents (\$600,000.00) which shall be paid by Defendant into a Qualified Settlement Fund (QSF). The Gross Settlement Amount is non-reversionary, no portion of the Gross Settlement Amount will return to Defendant and includes: (1) payments to the Class, (2) Class Counsel's fees, (3) Class Counsel's costs, (4) Settlement Administration Costs, (5) Class Representative Enhance Payment to Plaintiff; and (6) the PAGA Payment to the LWDA and PAGA Members. The Gross Settlement Amount is exclusive of the employer's share of any applicable payroll taxes, and any such employer-side payroll taxes shall be paid by Defendant separately and in addition to the Gross Settlement Amount. The Gross Settlement Amount plus any applicable employer-side payroll taxes shall be the maximum amount that Defendant is required to pay under the Settlement. In the

1 event that the consideration due under this Agreement is not paid, then the Settlement is voidable
2 at the option of Plaintiff. Payment shall be made per the terms of this Agreement. If the Agreement
3 is voided, then the time for Plaintiff to bring class and/or aggrieved employee claims, will be tolled
4 from the date that this Agreement is fully executed. The Gross Settlement Amount will be funded
5 by Defendant in two installments. The first installment in the amount of \$300,000 will be made
6 within thirty (30) calendar days after Final Approval, provided no objections/appeals are filed
7 during this time. The second installment of \$300,000 will be made no later than six (6) months
8 after the first installment payment is due, provided no objections/appeals to the settlement are filed.

9 18. "Individual Settlement Payment" means the amount payable from the Net
10 Settlement Amount to each Participating Class Member and any payment a PAGA Member is
11 eligible to receive from the employee portion of the PAGA Payment.

12 19. "Net Settlement Amount" means the funds available for payments to the Class,
13 which shall be the amount remaining after the following amounts are deducted from the Gross
14 Settlement Amount: (1) Class Counsel's fees, (2) Class Counsel's costs, (3) Settlement
15 Administration Costs, (4) Class Representative Enhancement Payment to Plaintiff; and (5) the
16 PAGA Payment to the LWDA and PAGA Members.

17 20. "Notice" means the Notice of Class Action Settlement in a form substantially
18 similar to the form attached hereto as **Exhibit A**, in both English and Spanish, that will be mailed
19 to Class Members' last known addresses, and which will provide Class Members with information
20 regarding the Action and information regarding the settlement of the Action.

21 21. "PAGA" means the California Labor Code Private Attorneys General Act of 2004
22 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA").

23 22. "PAGA Payment" means the payment to the State of California Labor and
24 Workforce Development Agency ("LWDA") for its seventy-five percent (75%) share of the total
25 amount allocated toward penalties under the PAGA and payments to the PAGA Members of their
26 (25%) share of the total amount allocated toward penalties under the PAGA, all of which are to be
27 paid from the Gross Settlement Amount. The Parties have agreed that Fifty Thousand Dollars and
28 Zero Cents (\$50,000.00) of the Gross Settlement Amount will be allocated toward penalties under

1 the PAGA of which Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00)
2 will be paid to the LWDA and Twelve Hundred Thousand Five Hundred Dollars and Zero Cents
3 (\$12,500.00) will be distributed to PAGA Members on a *pro rata* basis based on Workweeks
4 worked by the PAGA Members within the PAGA Period. PAGA Members will receive payment
5 from the employee portion of the PAGA Payment and will be deemed to have released any claims
6 arising out of PAGA regardless of their decision to participate in the class action if the PAGA
7 Payment is approved by the Court.

8 23. “PAGA Period” means the period from June 25, 2020, through and ending on either
9 the date of Preliminary Approval, or ninety (90) days from the date of mediation (*i.e.*, September
10 20, 2023), whichever date occurs earlier.

11 24. “PAGA Members” means Class Members who were employed by Defendant
12 during the PAGA Period.

13 25. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either
14 Plaintiff or Defendant, individually.

15 26. “Participating Class Members” means all Class Members who do not submit valid
16 and timely Requests for Exclusion. No claim form is required for a Class Member to become a
17 Participating Class Member.

18 27. “Plaintiff” means Perfecto Chavez Gonzalez.

19 28. “Preliminary Approval” means the Court order granting preliminary approval of
20 the Settlement Agreement.

21 29. “Objection” means a Class Member’s valid and timely written objection to the
22 Settlement Agreement. For a written Objection to be valid, it must be submitted by the Response
23 Deadline and include: (a) the objector’s full name, signature, address, telephone number, the
24 approximate dates of employment in California, last four digits of the Class Member’s social
25 security number or employee ID number; (b) the case name and number; (c) a written statement of
26 all grounds for the objection accompanied by legal support, if any, for such objection; (d) copies
27 of any papers, briefs, or other documents upon which the objection is based, if any; (e) a statement
28 describing whether the objector intends to appear at the Final Approval Hearing, either in person

1 or through counsel at the Class Member's expense; and (f) the identity of the objector's counsel,
2 if the objector is represented by counsel.

3 30. "Released Class Claims" means all claims, debts, rights, demands, liabilities,
4 obligations and causes of actions that are alleged, or reasonably could have been alleged, based on
5 the facts alleged in the operative Complaint and First Amended Complaint in the Action, including
6 factual claims regarding Defendant's alleged: (i) failure to pay all regular wages, minimum wages
7 and overtime wages due pursuant to California Labor Code sections 510, 1194, 1197, 1197.1,
8 1198, and 1199, and the Industrial Welfare Commission ("IWC") Wage Orders; (ii) failure to
9 provide meal periods or compensation in lieu thereof pursuant to California Labor Code sections
10 226.7, 512, and 1198, and the IWC Wage Orders; (iii) failure to provide rest periods or
11 compensation in lieu thereof pursuant to California Labor Code section 226.7 and 1198, and the
12 IWC Wage Orders; (iv) failure to reimburse necessary business expenses, including but not limited
13 to use of personal cell phones and masks, pursuant to Labor Code sections 2800 and 2802 and the
14 IWC Wage Orders; (v) failure to provide complete, accurate wage statements pursuant to Labor
15 Code section 226, 226.3, 1198, and the IWC Wage Orders; (vi) failure to pay wages timely at time
16 of termination or resignation pursuant to Labor Code sections 201, 202, and 203, and the IWC
17 Wage Orders; (vii) failure to provide timely pay wages during employment pursuant to Labor Code
18 sections 204 and 210 and the IWC Wage Orders; (viii) unfair business practices pursuant to
19 Business and Professions Code section 17200 *et. seq.*; and (ix) unlawful collection and/or receipt
20 of employee's wages by employer pursuant to Labor Code section 221 and the IWC Wage Orders;
21 (xii) failure to keep and maintain records pursuant to Labor Code sections 1198.5 and 1174 and
22 the IWC Wage Orders; and other related penalties for violations of California Labor Code §§ 201,
23 202, 203, 204, 210, 226, 226(a), 226.3, 226.7, 227.3, 246, 510, 512, 558, 598, 1174.5, 1194,
24 1194.2, 1197, 1197.1, 1198, 1199, 2699, 6401, 6403, 17200, the applicable Wage Order of the
25 Industrial Wage Commission, and California Business & Professions Code §§ 17200 to 17208,
26 including without limitation all related claims for restitution and other equitable relief arising from
27 California Business and Professions Code §§ 17200, *et seq.*, interest on unpaid wages, unpaid
28

1 wages, attorneys' fees or litigation costs, and any other related claims and/or penalties. This release
2 shall apply to claims arising during the Class Period.

3 31. "Released PAGA Claims" means all claims for civil penalties under the California
4 Labor Code Private Attorneys General Act of 2004 for civil penalties that could have been
5 premised on the facts alleged in Plaintiff's June 25, 2021, October 2, 2023, and October 10, 2023
6 LWDA Letters, the Complaint, and the First Amended Complaint including but not limited to
7 penalties that could have been awarded pursuant to Labor Code sections 210, 226, 226.3, 1174.5,
8 1197.1, 558, and 2699.

9 32. "Released Parties" means Defendant Nieves Landscape, Inc. as named by Plaintiff
10 in the operative complaint, and their past, present and/or future, direct and/or indirect, owners,
11 officers, directors, members, managers, agents, representatives, attorneys, accountants, insurers,
12 partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates,
13 divisions, predecessors, successors, assigns, and joint venturers.

14 33. "Request for Exclusion" means a valid and timely written statement submitted by
15 a Class Member requesting to be excluded from the Action. To be effective, the Request for
16 Exclusion must be submitted by the Response Deadline and contain (a) the Class Member's name,
17 signature, address, telephone number, dates of employment in California, and the last four digits
18 of the Class Member's Social Security number and/or the Employee ID number (b) the case name
19 and number; and (c) a clear statement requesting to be excluded from the settlement of the class
20 claims similar to the following: "I wish to exclude myself from the class settlement reached in the
21 matter of "*Perfecto Chavez Gonzalez v. Nieves Landscape, Inc.*", Los Angeles County Case No.
22 21STCV15266, I understand that by excluding myself, I will not receive money from the
23 settlement of my individual claims." To be effective, the Request for Exclusion must be post-
24 marked by the Response Deadline and received by the Settlement Administrator. The Request for
25 Exclusion shall not be effective as to the Released PAGA Claims as Class Members have no right
26 to exclude themselves (opt-out) of the PAGA component of the Settlement.

27 34. "Response Deadline" shall be sixty (60) calendar days after the Settlement
28 Administrator mails Notice to Class Members and the last date on which Class Members may

1 submit Requests for Exclusion, Objections to the Settlement, or Workweek Disputes. In the event
2 the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be extended to the
3 next day on which the U.S. Postal Service is open. The Response Deadline for Requests for
4 Exclusion or Objections will be extended fifteen (15) calendar days for any Class Member who is
5 re-mailed a Notice by the Settlement Administrator, unless the 15th day falls on a Sunday or
6 Federal holiday, in which case the Response Deadline will be extended to the next day on which
7 the U.S. Postal Service is open. The Response Deadline may also be extended by express
8 agreement between Class Counsel and Defendant. Under no circumstances, however, will the
9 Settlement Administrator have the authority to unilaterally extend the deadline for Class Members
10 to submit a Request for Exclusion or Objection to the Settlement.

11 35. "Settlement" means the disposition of the Action pursuant to this Agreement.

12 36. "Settlement Administrator" means APEX Class Action Settlement Administrators.
13 The Parties each represent that they do not have any financial interest in the Settlement
14 Administrator or otherwise have a relationship with the Settlement Administrator that could create
15 a conflict of interest.

16 37. "Settlement Administration Costs" mean the costs payable from the Gross
17 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
18 but not limited to, printing, distributing, and tracking documents for this Settlement,
19 calculating/confirming the class member Workweeks from the information contained in the Class
20 List, calculating each Participating Class Member's Individual Settlement Payment, tax reporting,
21 distributing the Gross Settlement Amount, providing necessary reports and declarations, and other
22 duties and responsibilities set forth herein to process this Settlement, and as requested by the
23 Parties. Settlement Administration Costs shall not exceed Twenty Thousand Dollars and Zero
24 Cents (\$20,000.00).

25 38. "Workweek" shall mean any calendar week (*i.e.*, a week beginning with Sunday
26 and ending with Saturday) during which a Class Member/PAGA Member worked at least one (1)
27 day for Defendant during the Class Period and/or PAGA Period, and based on hire dates, re-hire
28 dates and termination dates.

TERMS OF AGREEMENT

39. Amending Case No. 21STCV15266 and Dismissal of Case No. 21STCV32969:

The Parties will stipulate to allow Plaintiff to file the First Amended Complaint as defined in paragraph 15 of the Definitions in Case No. 21STCV15266 65 calendar days after the date of Plaintiff's second amended LWDA notice dated October 10, 2023 provided that the LWDA does not provide notice of its intent to investigate, and will further stipulate to dismiss Case No. 21STCV32969 without prejudice. The Amendment to Case No. 21STCV15266 must occur before Case No. 21STCV32969 is dismissed.

40. Settlement Consideration: Defendant shall fund the Gross Settlement Amount and all applicable employer-side payroll taxes in two installment payments as follows: The first installment in the amount of \$300,000 will be made within thirty (30) calendar days after Final Approval, provided no objections/appeals are filed during this time. The second installment of \$300,000 will be made no later than six (6) months after the first installment payment is due, provided no objections/appeals to the settlement were filed. The following will be paid out of the Gross Settlement Amount: the sum of the Individual Settlement Payments, the Class Representative Enhancement Payments, Class Counsel's Fees and Costs, the PAGA Payment, and the Settlement Administration Costs, as specified in this Agreement. Except for any employer-side taxes due on the Individual Settlement Payments, or as a result of a potential increase in the number of Workweeks as set forth below in paragraph 41, Defendant shall not be required to pay more than the Gross Settlement Amount plus any applicable employer-side payroll taxes. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will revert to Defendant.

41. Potential Increase to the Gross Settlement Amount: Defendant represented there were approximately 112,067 Workweeks (worked by approximately 1,047 Class Members) within the Class Period. Should the actual number of Workweeks increase by more than ten percent (10%) (*i.e.* by more than 11,207 additional Workweeks) through the Class Period, Defendant will have the option to either a) increase the Gross Settlement Amount proportionally by the Workweeks in excess of 123,274 multiplied by the Workweek value (for example, if the number of Workweeks

increases by 11%, the Gross Settlement Amount will increase by 1%) or b) to shorten the release period to the date on which the number of Workweeks reaches 123,274.

42. Funding of the Gross Settlement Amount: Within thirty (30) calendar days of Final Approval of the Settlement, as defined in this Agreement, Defendant will deposit the first installment of the Gross Settlement Amount in the amount of \$300,000, into a Qualified Settlement Fund (“QSF”) to be established by the Settlement Administrator. Defendant will deposit the second installment of \$300,000 into the QSF no later than six (6) months after the first installment payment is due. Defendant shall provide all information necessary for the Settlement Administrator to calculate necessary payroll taxes including its official name, 8-digit state unemployment insurance tax ID number, and other information requested by the Settlement Administrator, no later than seven (7) calendar days of the Effective Date. This information shall be kept confidential from Plaintiff. Defendant may not vary from the Court approved scheduling for the funding of the Gross Settlement Amount unless the Parties agree otherwise; it is not anticipated there would be a need to alter the funding date. If Defendant has an objection to the Court approved funding timeline, Defendant must seek *ex parte* relief from the Court about its objection, unless Plaintiff agrees with Defendant otherwise.

43. Distribution of the Gross Settlement Amount: No later than fourteen (14) calendar days of each of the two fundings of the Gross Settlement Amount, the Settlement Administrator will issue payments for: (a) Individual Settlement Payments; (b) the PAGA Payment to the Labor and Workforce Development Agency; (c) the Class Representative Enhancement Payments; (d) Class Counsel’s Fees and Costs and (e) Settlement Administration Costs.

44. Attorneys’ Fees and Costs: Defendant agrees not to oppose any application or motion by Class Counsel for attorneys’ fees up to 35% of the Maximum Settlement Amount, or Two Hundred and Ten Thousand Dollars and Zero Cents (\$210,000.00) plus the reimbursement of reasonable costs and expenses associated with the litigation and settlement of the Action, in an amount not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00), both of which will be paid from the gross Settlement Amount. Any portion of the requested fees or costs that is not

1 awarded to the Class Counsel shall be reallocated to the Net Settlement Amount and distributed to
2 Participating Class Members as provided in this Agreement.

3 45. Class Representative Enhancement Payment: Defendant agrees not to oppose or
4 object to any application or motion by Plaintiff for Class Representative Enhancement Payment of
5 Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00). The Class Representative
6 Enhancement Payment is in exchange for the General Release of the Plaintiff's individual claims
7 and for his time, effort and risk in bringing and prosecuting the Action. Any portion of the
8 requested Class Representative Enhancement Payment that is not awarded to the Class
9 Representative shall be reallocated to the Net Settlement Amount and distributed to Participating
10 Class Members as provided in this Agreement.

11 46. Settlement Administration Costs: The Settlement Administrator will be paid for the
12 reasonable costs of administration of the Settlement and distribution of payments from the Gross
13 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall
14 not exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00).

15 47. PAGA Payment: Fifty Thousand Dollars and Zero Cents (\$50,000.00) shall be
16 allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the
17 PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment,
18 or Thirty Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), to the California
19 Labor and Workforce Development Agency ("LWDA"). Twelve Thousand Five Hundred Dollars
20 and Zero Cents (\$12,500.00) will be distributed to PAGA Members on a pro rata basis based on
21 the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA
22 Members shall receive their portion of the PAGA Payment and will be deemed to have released
23 any claims arising out of PAGA regardless of their decision to opt-out of the class settlement.

24 48. Net Settlement Amount for Payment of Class Claims: The Net Settlement Amount
25 will be used to satisfy the class portion of Participating Class Members Individual Settlement
26 Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount
27 is as follows:
28

Gross Settlement Amount	\$	600,000.00
Enhancement Payment:	\$	7,500.00
Class Counsel's Fees:	\$	210,000.00
Class Counsel's Costs:	\$	30,000.00
PAGA Payment	\$	50,000.00
Settlement Administration Costs:	\$	<u>20,000.00</u>
Estimated Net Settlement Amount	\$	282,500.00

49. Individual Settlement Payment Calculations: Individual Settlement Payments will be paid from the Net Settlement Amount that includes the 25% portion of the PAGA Payment allocated for PAGA Members and shall be paid pursuant to the formula set forth herein:

a) Calculation of Class Portion of Individual Settlement Payments:

The Settlement Administrator will calculate the total Workweeks for all Participating Class Members by adding the number of Workweeks worked by each Participating Class Member during the Class Period. The respective Workweeks for each Participating Class Member will be divided by the total Workweeks for all Participating Class Members, resulting in the Payment Ratio for each Participating Class Member. Each Participating Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated share of the Net Settlement Amount: $(\text{Participating Class Member's Workweeks} \div \text{Workweeks during Class Period}) \times \text{Net Settlement Amount}$.

b) Calculation of PAGA Portion of Individual Settlement Payments:

The Settlement Administrator will calculate the total Workweeks for all PAGA Members by adding the number of Workweeks worked by each PAGA Member during the PAGA Period. The respective Workweeks for each PAGA Member will be divided by the total Workweeks for all PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member's Payment Ratio will then be multiplied by the employee portion of the PAGA Payment to calculate each PAGA Member's estimated share of the PAGA Payment: $(\text{PAGA Member's Workweeks} \div \text{Workweeks during PAGA Period}) \times \$ 12,500.00$ (the employee portion of the PAGA Payment). PAGA Members shall receive this portion of their Individual Settlement Payment and will be

1 deemed to have released any claims arising out of PAGA regardless of whether they opt out of the
2 participation regarding the class claims.

3 c) Allocation of Individual Settlement Payments: All Individual
4 Settlement Payments will be allocated as follows: twenty percent (20%) of each Individual
5 Settlement Payment will be allocated as wages, forty percent (40%) shall be allocated as interest,
6 and forty percent (40%) shall be allocated as penalties. The portion of the Individual Settlement
7 Payment allocated to wages will be reported by the Settlement Administrator on an IRS Form W-
8 2. The remaining non-wage payments will be reported on an IRS Form-1099 by the Settlement
9 Administrator. Individual Settlement Payments shall be paid exclusively from the QSF, pursuant
10 to the settlement formula set forth herein. Also, for tax purposes, the Parties agree that 100% of
11 each PAGA Members' individual payment amount shall constitute penalties and each PAGA
12 Member will be issued an IRS Form-1099 for such payment to him or her, if required by law.
13 Neither Counsel for Plaintiff nor Defendant intend anything contained in this Agreement to
14 constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon
15 as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10,
16 as amended) or otherwise.

17 50. No Credit Toward Benefit Plans: The Individual Settlement Payments made to
18 Participating Class Members under this Settlement, as well as any other payments made pursuant
19 to this Settlement, will not modify any previously credited hours or service under any employee
20 benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not
21 form the basis for additional contributions to, benefits under, or any other monetary entitlement
22 under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments
23 made under the terms of this Stipulation shall not be applied retroactively, currently, or on a going
24 forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of
25 the Released Parties' benefit plans, policies, or bonus programs. The Released Parties retain the
26 right to modify the language of their benefit plans, policies and bonus programs to effectuate this
27 intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours
28 worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable

1 plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other
2 purpose, and that additional contributions or benefits are not required by this Settlement.

3 51. Settlement Administration Process: The Parties agree to cooperate in the
4 administration of the Settlement and to make all reasonable efforts to control and minimize the
5 costs and expenses incurred in administration of the Settlement. Without prejudice to any other
6 remedies, the Settlement Administrator shall hold Defendant harmless from and against all
7 liabilities, claims, causes of action, costs, and expenses (including legal fees and expenses) arising
8 out of any failure to timely or properly compensate Participating Class Members as provided for
9 in this Agreement. No person shall have any claim against any of the Released Parties, Counsel
10 for Defendant, Plaintiff, the Class Members, Class Counsel, or the Settlement Administrator based
11 on mailings, distributions, and payments made in accordance with or pursuant to this Agreement.
12 The Settlement Administrator will provide the following services:

- 13 a) Establish and maintain a Qualified Settlement Fund.
 - 14 b) Calculate the Individual Settlement Payment each Participating Class Member is
15 eligible to receive and the portion of the PAGA Payment each PAGA Member shall
16 receive.
 - 17 c) Print and mail the Notice.
 - 18 d) Conduct additional address searches for mailed Notices that are returned as
19 undeliverable.
 - 20 e) Process Requests for Exclusion, field inquiries from Class Members.
 - 21 f) Print and issue and issue Settlement Payment Checks, prepare IRS W2 and 1099
22 Tax Forms and any other filings required by any governmental taxing authority.
 - 23 g) Provide declarations and/or other information to this Court as requested by the
24 Parties and/or the Court regarding the settlement administration process.
 - 25 h) Provide weekly status reports to counsel for the Parties.
 - 26 i) Posting a notice of final judgment online at Settlement Administrator's website.
 - 27 j) Translate the Notice from English to Spanish.
- 28

1 52. Delivery of the Class List: Within fourteen (14) calendar days of Preliminary
2 Approval, Defendant will provide the Class List to the Settlement Administrator. The information
3 Defendant provides to the Settlement Administrator shall be used solely to administer the terms of
4 the Agreement as described herein, and shall be kept confidential from Plaintiff and Class Counsel.

5 53. Notice by First-Class U.S. Mail: Within seven (7) calendar days after receiving the
6 Class List from Defendant, the Settlement Administrator will mail the Notice to all Class Members
7 via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in
8 the Class List.

9 54. Confirmation of Contact Information in the Class List: Prior to mailing, the
10 Settlement Administrator will perform a search based on the National Change of Address Database
11 for information to update and correct for any known or identifiable address changes. Any Notice
12 returned to the Settlement Administrator as non-deliverable on or before the Response Deadline
13 will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto
14 and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no
15 forwarding address is provided, the Settlement Administrator will promptly attempt to determine
16 the correct address using a skip-trace, or other search using the name, address telephone number
17 and/or Social Security number of the Class Member involved and will then perform a single re-
18 mailing. If any notice sent to a Class Member by the Settlement Administrator is returned as
19 undeliverable to a current employee, then Defendant shall make all reasonable efforts to obtain the
20 current address from the Class Member and provide the same within seven (7) calendar days of
21 notice from the Settlement Administrator. Those Class Members who receive a re-mailed Notice,
22 whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15)
23 calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or an Objection
24 to the Settlement. If the Response Deadline for any Class Member is later than the original 60-day
25 notice period, the Settlement Administrator shall include a letter with the Notice advising the Class
26 Member of the adjustment to the Response Deadline. It shall be presumed that each Class Member
27 whose Notice is not returned to the Settlement Administrator as undeliverable within the 60-day
28 notice period has actually received the Notice.

1 55. Notice: All Class Members will be mailed a Notice in English and Spanish. Each
2 Notice will provide: (a) information regarding the nature of the Action; (b) a summary of the
3 Settlement's principal terms; (c) the Class definition; (d) the total number of Workweeks each
4 respective Class Member worked for Defendant during the Settlement Class Period; (e) each Class
5 Member's estimated Individual Settlement Payment and the formula for calculating Individual
6 Settlement Payments; (f) the dates which comprise the Class Period; (g) the total number of PAGA
7 Pay Periods each respective PAGA Employee worked for Defendant during the PAGA Period; (h)
8 each PAGA Employee's estimated Individual PAGA Settlement Payment and the formula for
9 calculating Individual PAGA Payments; (i) the dates which comprise the PAGA Period; (j)
10 information regarding disputing Workweeks or PAGA Pay Periods, Requests for Exclusion, or
11 Notice of Objections; (k) the deadlines by which the Class Member must postmark Requests for
12 Exclusion, Objections to the Settlement, or Workweek Disputes or PAGA Pay period disputes; (l)
13 the claims to be released, as set forth herein; and (m) the date for the final approval hearing.

14 56. Disputed Information on Notice: Class Members will have an opportunity to
15 dispute the information provided in their Notice. To the extent Class Members dispute the number
16 of Workweeks with which they have been credited or the amount of their Individual Settlement
17 Payment, Class Members may produce evidence to the Settlement Administrator showing that
18 such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's
19 records will be presumed determinative. However, if a Class Member produces evidence to the
20 contrary by the Response Deadline, the Parties will evaluate the evidence submitted by the Class
21 Member and the Parties will make the final decision as to the number of eligible Workweeks that
22 should be applied and/or the Individual Settlement Payment to which the Class Member may be
23 entitled, in the event that Defendant cannot make this determination itself. If the Parties do not
24 agree, the dispute will be submitted to the Court.

25 57. Defective Submissions: If a Class Member's Request for Exclusion is defective as
26 to the requirements listed herein, that Class Member will be given an opportunity to cure the
27 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)
28 business days of receiving the defective submission to advise the Class Member that his or her

1 submission is defective and that the defect must be cured to render the Request for Exclusion valid.
2 The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar
3 days from the date of the cure letter, whichever date is later, to postmark a revised Request for
4 Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the
5 Settlement Administrator will have no further obligation to give notice of a need to cure. If the
6 revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

7 58. Request for Exclusion Procedures: Any Class Member wishing to opt-out from the
8 Settlement must sign and postmark a written Request for Exclusion to the Settlement Administrator
9 by the Response Deadline. The Request for Exclusion must include (a) the Class Member's name,
10 signature, address, telephone number, dates of employment in California, and the last four digits
11 of the Class Member's Social Security number and/or the Employee ID number; (b) the case name
12 and number; and (c) a clear statement requesting to be excluded from the settlement of the class
13 claims similar to the following: "I wish to exclude myself from the class settlement reached in the
14 matter of "*Perfecto Chavez Gonzalez v. Nieves Landscape, Inc.*", Los Angeles County Case No.
15 21STCV15266, I understand that by excluding myself, I will not receive money from the
16 settlement of my individual claims." The date of the postmark on the return mailing envelope
17 receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has
18 been timely submitted. To be effective, the Request for Exclusion must be post-marked by the
19 Response Deadline and received by the Settlement Administrator. All Requests for Exclusion will
20 be submitted to the Settlement Administrator, who will certify jointly to Class Counsel and
21 Defendant's Counsel the Requests for Exclusion that were timely submitted. All Class Members
22 who do not request exclusion from the Action will be bound by all terms of the Settlement
23 Agreement if the Settlement is granted final approval by the Court and deemed Effective under
24 this Agreement. The Request for Exclusion shall not be effective as to the release of claims arising
25 under the Private Attorneys General Act.

26 59. Defendant's Right to Rescind: If Class Members representing more than the
27 aggregate total of ten percent (10.0%) of the Class Members opt-out of the Settlement, Defendant
28 may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it will

1 be thereby null and void. Defendant must give written notice to Class Counsel of its intent to
2 rescind the Agreement within fourteen (14) business days of the Settlement Administrator
3 notifying the Parties of these opt-outs. If Defendant exercises its right to rescind the Agreement,
4 Defendant shall be responsible for all Settlement Administration Costs incurred to the date of
5 rescission, not to exceed the amount approved by the Court in the Preliminary Approval Order. In
6 such a case, the Parties and any funds to be awarded under this Settlement Agreement shall be
7 returned to their respective statuses as of the date and time immediately prior to the execution of
8 this Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had
9 not been executed, except that any fees already incurred by the Settlement Administrator shall be
10 paid by Defendant, not to exceed the amount approved by the Court in the Preliminary Approval
11 Order, and no term of this Agreement or any draft thereof, or the negotiation, documentation, or
12 other part or aspect of the Parties' settlement discussions, shall have any effect or be admissible as
13 evidence for any purpose in the Action, or in any other proceeding.

14 60. Settlement Terms Bind All Class Members Who Do Not Opt-Out: Upon the
15 complete funding of the Gross Settlement Amount, any Class Member who does not affirmatively
16 opt-out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by
17 all of its terms, including those pertaining to the Released Class Claims, as well as any Judgment
18 that may be entered by the Court if it grants final approval to the Settlement. Class Members who
19 opt-out of the Settlement shall not be bound by such Judgment or release. The entry of a final order
20 approving settlement of this Action and Judgment which discharges Defendant and Released
21 Parties from liability for any and all of the Released Claims shall have a *res judicata* effect and bar
22 Plaintiff and Class Members who did not submit a timely and valid Request for Exclusion from
23 bringing any actions or claims asserting the Released Claims. The names of Class Members who
24 have opted-out of the settlement shall be disclosed to the Counsel for both Plaintiff and Defendant
25 and noted in the proposed Judgment submitted to the Court. PAGA group members cannot opt
26 out of the PAGA portion of the settlement, and shall be bound by that regardless of whether they
27 opt out of the class settlement.
28

61. Objection Procedures: To object to the Settlement, a Participating Class Member must postmark a valid Objection to the Settlement Administrator on or before the Response Deadline. The Objection must be signed by the Participating Class Member and contain all information required by this Settlement Agreement including the employees full name, address, telephone number, the last four digits of their social security number and/or Employee ID number, and the specific reason including any legal grounds for the Participating Class Members objection. The postmark date will be deemed the exclusive means for determining that the Notice of Objection is timely. Participating Class Members who fail to object in the manner specified above will be foreclosed from making a written objection, but shall still have a right to appear at the Final Approval Hearing in order to have their objections heard by the Court. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Participating Class Members to submit written objections to the Settlement or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with respect to any objections to this Settlement.

62. Certification Reports Regarding Individual Settlement Payment Calculations: The Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; (b) the number of Notices returned and re-mailed and (c) whether any Class Member has submitted a challenge to any information contained in the Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

63. Uncashed Settlement Checks: Any checks issued by the Settlement Administrator to Participating Class Members and PAGA Members will be negotiable for at least one hundred eighty (180) calendar days. If a Participating Class Member or PAGA Member does not cash his or her Settlement Check or PAGA Payment check within 180 days, the uncashed funds, subject to Court approval, shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of those Participating Class Members and PAGA Members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue"

1 under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out
2 to Participating Class Members and PAGA Members, whether or not they all cash their Settlement
3 Checks or PAGA payment checks. Therefore, Defendant will not be required to pay any interest
4 on such amounts. The Individual Settlement Payments provided to Participating Class Members
5 and to PAGA Members shall prominently state the expiration date or a statement that the
6 Settlement Check will expire in one hundred eighty (180) days, or alternatively, such a statement
7 may be made in a letter accompanying the Individual Settlement Payment. Expired Individual
8 Settlement Payments will not be reissued, except for good cause and as mutually agreed by the
9 Parties in writing. The parties agree no unclaimed funds will result from the settlement.

10 64. Administration of Taxes by the Settlement Administrator: The Settlement
11 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class
12 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant
13 to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll
14 taxes and penalties to the appropriate government authorities.

15 65. Tax Liability: Defendant makes no representation as to the tax treatment or legal
16 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not
17 relying on any statement, representation, or calculation by Defendant or by the Settlement
18 Administrator in this regard. Plaintiff and Participating Class Members understand and agree that
19 they will be solely responsible for the payment of any taxes and penalties assessed on the payments
20 described herein. Defendant's share of any employer payroll taxes and other required employer
21 withholdings due on the Individual Settlement Payments, including, but not limited to, Defendant's
22 FICA and FUTA contributions, shall be paid separate and apart from the Gross Settlement
23 Amount.

24 66. Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR
25 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
26 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
27 PARTY") ACKNOWLEDGES AND AGREES THAT: (1) NO PROVISION OF THIS
28 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR

1 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
2 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
3 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
4 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR
5 PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
6 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
7 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
8 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
9 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
10 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
11 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
12 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
13 ACKNOWLEDGING PARTY, AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
14 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
15 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
16 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
17 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
18 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
19 AGREEMENT.

20 67. No Prior Assignments: The Parties and their counsel represent, covenant, and
21 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
22 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
23 action, cause of action or right herein released and discharged.

24 68. Release by Participating Class Members: Upon the complete funding of the Gross
25 Settlement Amount, Participating Class Members shall fully and finally release and discharge the
26 Released Parties from the Released Class Claims that arose during the Class Period. This release
27 shall be binding on all Participating Class Members. The release of Released Claims will have a
28 res judicata effect against any Class Members who make a claim against any of the Released Parties

1 for any of the Released claims, file any actions, claims, complaints or proceedings regarding the
2 Released Claims with the California Division of Labor Standards Enforcement, initiate any other
3 proceedings against any of the Released Parties regarding any of the Released Claims, or seek to
4 participate in any judgment or settlement of claims that are the subject of the Released Claims in
5 any other class, collective, or representative action against any of the Released Parties.

6 69. Release by Plaintiff, State of California, LWDA and PAGA Members: Upon the
7 complete funding of the Gross Settlement Amount, Plaintiff, the LWDA, the State of California,
8 through Plaintiff as its agent and/or proxy, any other representative, proxy, or agent thereof,
9 including but not limited to any and all PAGA Members, shall fully and finally release and
10 discharge the Released Parties from the Released PAGA Claims that arose during the PAGA
11 Period. The Parties intend for this PAGA settlement to have claim preclusion, issue preclusion, or
12 otherwise bar a representative action to the broadest extent possible by law if an aggrieved
13 employee were to bring a subsequent claim on behalf of the LWDA based on the same factual
14 predicate as the Action and covering the same time.

15 70. Inability to Object / Opt Out of PAGA. The Parties agree that there is no statutory
16 right for any PAGA Employee to object to, opt out of, or otherwise exclude himself or herself from
17 the settlement of the PAGA claims. Accordingly, any timely objection or exclusion from the
18 Settlement submitted by a Class Member shall be construed as relating only to the putative class
19 action claims and shall have no effect whatsoever on the settlement of the PAGA claims.

20 71. Release of Additional Claims & Rights by Plaintiff: Upon the funding of the Gross
21 Settlement Amount, Plaintiff for himself and his spouse, heirs and assigns, fully and finally release
22 the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises,
23 agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses,
24 debts, penalties and expenses of any nature and description whatsoever, known or unknown,
25 suspected or unsuspected, asserted or that might have been asserted, whether in tort, contract,
26 equity, or otherwise, arising out of Plaintiff's employment with Defendant, payment of wages
27 during that employment and the cessation of that employment and/or violation of any federal, state
28 or local statute, rule, ordinance or regulation. Such claims include but are not limited to any and

all Released Class Claims and Released PAGA Claims and termination thereof, California Civil Code, to include §§3287, 3336 and 3294; 12 CCR §11040; 8 CCR § 11060; California Code of Civil Procedure §1021.5; California common law of contract; 29 CFR §778.223; and 29 CFR §778.315; federal common law and, to the extent permitted by law, the Employee Retirement Income Security Act, 29 U.S.C. §§1001, *et seq.* (ERISA) §778.315; and federal common law. In addition, Plaintiff's General Release includes but is not limited to, all claims for lost wages and benefits, emotional distress, retaliation, restitution, penalties, punitive damages, and attorneys' fees and costs (except those provided by this Settlement Agreement) arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. §1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the California Fair Employment and Housing Act (FEHA); and the law of contract and tort. This release excludes the release of claims not permitted by law. Plaintiff's General Release include all claims, whether known or unknown. Even if Plaintiff discovers facts in addition to or different from those they now know or believe to be true with respect to the subject matter of Plaintiff's General Release, those claims will remain released and forever barred. Specifically, Plaintiff waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

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.

Notwithstanding the foregoing, Plaintiff does not waive or release any claim which cannot be waived or released by private agreement. Further, nothing in this Agreement shall prevent Plaintiff from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Plaintiff, however,

1 understands that by signing this Agreement, he waives the right to recover any damages or to
2 receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other
3 state or local deferral agency on their behalf to the fullest extent permitted by law, but expressly
4 excluding any monetary award or other relief available from the SEC/OSHA, including an
5 SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

6 72. Nullification of Settlement Agreement: In the event that: (a) the Court does not
7 enter the Preliminary Approval Order and approve the Released Claims specified herein without
8 requiring material changes to the “Basic Settlement Terms” defined as relating to the monetary
9 sums to be paid in the Settlement, the parameters of the Released Claims and the covered Class
10 Period, revisions to the Increase in Workweeks provision contained herein, and revisions to
11 Defendant’s Option to Nullify the Settlement Agreement provision contained herein; (b) the Court
12 does not finally approve the Settlement without requiring material changes to the Basic Settlement
13 Terms as provided herein; (c) the Court strikes or does not approve any material term of this
14 Settlement Agreement; (d) Defendant exercises its option to nullify the Settlement Agreement
15 based on an excessive number of opt-outs, as described in the above; or (e) the Settlement does
16 not become final as written and agreed to by the Parties for any other reason, then this Settlement
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
19 original respective positions. Any order or judgment entered by the Court in furtherance of this
20 Settlement Agreement will likewise be treated as void from the beginning and the Stipulations and
21 Recitals contained herein shall be of no force or effect and shall not be treated as an admission by
22 the Parties or their counsel. Any Settlement Administration Costs incurred will be the sole
23 responsibility of Defendant if Defendant exercises its option to nullify the Settlement Agreement
24 based on an excessive number of opt-outs (Section (d) of the instant paragraph). Any Settlement
25 Administration Costs incurred will be splits equally between the Parties if the Settlement
26 Agreement is Nullified for any other reason listed in the instant paragraph. Should the Court fail
27 to approve this settlement for any reason, the Parties agree that they will return to and attend
28

1 mediation with a mutually agreed Mediator in an effort to reach a settlement that may be approved
2 by the Court, unless the Parties are able to resolve the issue without resort to a mediator.

3 73. Preliminary Approval Hearing: Plaintiff will obtain a hearing before the Court to
4 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
5 Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes
6 only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a
7 Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
8 Notice to be sent to all class Members as specified herein. In conjunction with the Preliminary
9 Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of the
10 Settlement, and will include the proposed Notice attached as **Exhibit A**. Defendant agrees that it
11 will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the Court to fully and
12 completely approve the Agreement as to the Action will result in this Settlement Agreement
13 entered into by the Parties, and all obligations under this Settlement Agreement being nullified and
14 voided.

15 74. Final Settlement Approval Hearing and Entry of Judgment: Upon expiration of the
16 deadlines to postmark Requests for Exclusion or Objections to the Settlement Agreement, and with
17 the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to
18 determine the Final Approval of the Settlement Agreement along with the amounts properly
19 payable for: (a) Individual Settlement Payments; (b) Class Counsel's Fees and Costs; (c) the Class
20 Representative Enhancement Payments; and (d) the Settlement Administration Costs. Any failure
21 by the Court to fully and completely approve the Settlement Agreement as to all of the Action, or
22 the entry of any Order by another Court with regard to any of the Action which has the effect of
23 modifying material terms of this Agreement as described above or preventing the full and complete
24 approval of the Settlement Agreement as written and agreed to by the Parties, will result in this
25 Agreement and all obligations under this Agreement being null and void. Defendant agrees it shall
26 not oppose the granting of the Motion for Final Approval, provided Defendant has not exercised
27 its right to rescind pursuant to the terms of this Agreement.

1 75. Judgment and Continued Jurisdiction: Upon Final Approval of the Settlement by
2 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
3 Judgment to the Court for its approval. After entry of the Judgment and Effective Date of this
4 Agreement, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
5 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration
6 matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth
7 in this Settlement.

8 76. Exhibits Incorporated by Reference: The terms of this Settlement include the terms
9 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
10 herein. Any Exhibits to this Settlement are an integral part of the Settlement.

11 77. Entire Agreement: This Settlement Agreement and any attached Exhibits constitute
12 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
13 agreements in relation to settlement terms may be deemed binding on the Parties. The Parties
14 expressly recognize California Civil Code section 1625 and California Code of Civil Procedure
15 section 1856(a), which provide that a written agreement is to be construed according to its terms
16 and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such
17 extrinsic oral or written representations or terms will modify, vary or contradict the terms of this
18 Agreement.

19 78. Amendment or Modification: This Settlement Agreement may be amended or
20 modified only by a written instrument signed by counsel for all Parties or their successors-in-
21 interest.

22 79. Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant
23 and represent they are expressly authorized by the Parties whom they represent to negotiate this
24 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
25 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
26 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
27 counsel will cooperate with each other and use their best efforts to affect the implementation of
28 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 or Mediator to resolve such disagreement.

80. Binding on Successors and Assigns: This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

81. California Law Governs: All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

82. Execution and Counterparts: This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

83. Acknowledgement that the Settlement is Fair and Reasonable: The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

84. Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

85. Waiver of Certain Appeals: The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that either party may appeal any court order that materially alters the Settlement Agreement's terms.

86. Class Action Certification for Settlement Purposes Only: The Parties agree to stipulate to class action certification only for purposes of the Settlement. If, for any reason, the

1 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
2 that certification for purposes of the Settlement is not an admission that class action certification
3 is proper under the standards applied to contested certification motions and that this Agreement
4 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
5 should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than according
6 to the Settlement's terms.

7 87. Non-Admission of Liability: The Parties enter into this Agreement to resolve the
8 dispute that has arisen between them and to avoid the burden, expense and risk of continued
9 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
10 has violated any federal, state, or local law; violated any regulations or guidelines promulgated
11 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
12 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
13 engaged in any other unlawful conduct with respect to their employees. Neither this Agreement,
14 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed
15 as an admission or concession by Defendant of any such violations or failure to comply with any
16 applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this
17 Agreement and its terms and provisions shall not be offered or received as evidence in any action
18 or proceeding to establish any liability or admission on the part of Defendant or to establish the
19 existence of any condition constituting a violation of, or a non-compliance with, federal, state,
20 local or other applicable law. Except as set forth elsewhere herein, in the event that this Agreement
21 is not approved by the Court, or any appellate court, is terminated, or otherwise fails to be
22 enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way any claims,
23 rights or remedies, or defenses in the Action, and Defendant will not be deemed to have waived,
24 limited, or affected in any way any of its objections or defenses in the Action. The Parties shall be
25 restored to their respective positions in the Action prior to the entry of this Settlement.

26 88. Captions: The captions and section numbers in this Agreement are inserted for the
27 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
28 provisions of this Agreement.

1 89. Waiver: No waiver of any condition or covenant contained in this Settlement
2 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
3 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
4 right or remedy.

5 90. Enforcement Action: In the event that one or more of the Parties institutes any legal
6 action or other proceeding against any other Party or Parties to enforce the provisions of this
7 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or
8 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees
9 and costs, including expert witness fees incurred in connection with any enforcement actions.

10 91. Neutral Employment Reference: Defendant agrees that in the event that any
11 potential or future employers of Plaintiff request a reference regarding Defendant's employment
12 of Plaintiff, Defendant shall only provide Plaintiff's dates of employment. Defendant shall not
13 refer to the Action or this Settlement.

14 92. Mutual Preparation: The Parties have had a full opportunity to negotiate the terms
15 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
16 against one Party than another merely by virtue of the fact that it may have been prepared by
17 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
18 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

19 93. Representation By Counsel: The Parties acknowledge that they have been
20 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
21 and that this Agreement has been executed with the consent and advice of counsel and reviewed
22 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
23 Agreement.

24 94. All Terms Subject to Final Court Approval: All amounts and procedures described
25 in this Settlement Agreement herein will be subject to final Court approval.

26 95. Cooperation and Execution of Necessary Documents: The Parties agree to
27 cooperate to promote participation in the Settlement, and in seeking court approval of the
28 Settlement. The Parties and their counsel agree not to take any action to encourage any Class

1 Members to opt out of and/or object to the Settlement. Defendant agrees not to obtain any
2 settlement agreement waivers, or Pick-Up Stix agreements from any Class Member prior to the
3 funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter
4 into any arbitration agreement with any Class Member that covers the claims released via this
5 Agreement during the Settlement approval process prior to the funding of the Gross Settlement
6 Amount and that the Parties will work in good faith to reach an agreement approved by the Court.

7 96. Confidentiality: The Parties and their counsel agree to keep the terms of the
8 Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff,
9 Class Counsel, Defendant and its counsel agree that they will not issue any press releases, initiate
10 any contact with the press, respond to any press inquiry or have any communication with the press
11 about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement
12 Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by
13 law or in furtherance of business purposes, including the fulfillment of obligations stated in this
14 Settlement Agreement or limit Class Counsel's communications with the Class Members in
15 furtherance of approval of this Settlement.

16 97. Binding Agreement: The Parties warrant that they understand and have full
17 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
18 fully enforceable and binding on all Parties and agree that it will be admissible and subject to
19 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality
20 provisions that otherwise might apply under federal or state law.

21 98. Submission to the LWDA: The Settlement Agreement shall be submitted by
22 Plaintiff to the LWDA within the time limits and as prescribed by law.

23 ///

24 ///

25 ///

1 99. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this
2 Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms
3 herein.

4
5 Dated: _____

PLAINTIFF

6 By: _____
7 Perfecto Chavez Gonzalez

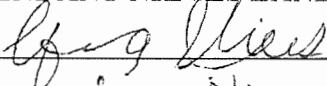
8
9
10 Dated: _____

PROTECTION LAW GROUP, LLP

11 By: _____
12 Heather Davis, Esq.
13 Amir Nayebdadash, Esq.
14 Carlos Jimenez, Esq.
15 Attorneys for Plaintiff
Perfecto Chavez Gonzalez

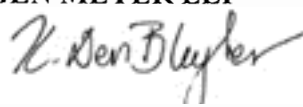
16 Dated: November 21, 2023

DEFENDANT NIEVES LANDSCAPE, INC.

17 By: 
18 Name: Greg Nieves
19 Title: President

20
21
22 Dated: November 21, 2023

O'HAGEN MEYER LLP

23 
24 By: _____
25 Katherine DenBleyker, Esq.
26 Elizabeth Martin, Esq.
27 Attorneys for Defendant
28 Nieves Landscape, Inc.

99. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms herein.

Dated: 10/31/2023

PLAINTIFF

By:



Perfecto Chavez Gonzalez

Dated: 10/31/2023

PROTECTION LAW GROUP, LLP

By:



Heather Davis, Esq.
Amir Nayebdadash, Esq.
Carlos Jimenez, Esq.
Attorneys for Plaintiff
Perfecto Chavez Gonzalez

Dated: _____

DEFENDANT NIEVES LANDSCAPE, INC.

By: _____

Name: _____

Title: _____

Dated: _____

O'HAGEN MEYER LLP

By: _____

Katherine DenBleyker, Esq.
Elizabeth Martin, Esq.
Attorneys for Defendant
Nieves Landscape, Inc.

Exhibit “A”

NOTICE OF CLASS ACTION SETTLEMENT

Gonzalez v. Nieves Landscape, Inc.
Los Angeles County Superior Court, Case No. 21STCV15266

A COURT AUTHORIZED THIS NOTICE.

THIS IS NOT A SOLICITATION BY A LAWYER. YOU ARE NOT BEING SUED.

Why should you read this Notice?

A proposed settlement (“the Settlement”) has been reached in a class and representative action lawsuit entitled *Gonzalez v. Nieves Landscape, Inc.*, Los Angeles County Superior Court, Case No. 21STCV15266 (the “Action”). The purpose of this Notice of Class Action Settlement (“Class Notice”) is to describe the Action briefly and to inform you of your rights and options in connection with the Settlement, which will resolve all pending claims. The parties’ Joint Stipulation of Class and PAGA Action Settlement and Release (“the Agreement”) is filed with the Court, a copy of which you may request, as described below. If there are any material inconsistencies between this Class Notice and the Agreement, then, subject to Court review, the provisions in the Agreement shall control.

A Final Approval or Fairness Hearing concerning the Settlement, the Honorable Carolyn B. Kuhl presiding, is set for **[HEARING DATE & TIME]** in Department 12 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, to determine whether the Settlement is fair, adequate, and reasonable. The date and time of the Fairness Hearing may change without further notice, so please contact the Settlement Administrator or Class Counsel for further updates.

AS A CLASS MEMBER, UNLESS YOU TIMELY REQUEST TO BE EXCLUDED OR “OPT-OUT, YOU WILL BE ELIGIBLE TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT AND WILL BE BOUND BY THE RELEASE OF CLAIMS DESCRIBED IN THIS CLASS NOTICE AND IN THE AGREEMENT.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Do nothing	If you do nothing, you will be considered a Settlement Class Member and entitled to receive Settlement benefits, as explained more fully below. You will also forfeit the right to pursue a separate legal action against any Released Party, including Nieves Landscape, Inc., and its past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, assigns, and related companies, and each of their past, present, and future shareholders, members, owners, officers, directors, employees, agents, investment bankers, accountants, insurers, reinsurers, attorneys, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies, and any other individual or entity which could be liable for any of the Released Claims (“Released Parties”).
Request to exclude yourself from or “Opt-Out” of the Settlement	If you do not want to participate in the Settlement, you must send a written Request for Exclusion to the Settlement Administrator to exclude yourself, or “Opt-Out,” no later than [RESPONSE DEADLINE] . If you choose to Opt-Out, you will not release any claims against Released Parties, but you also will not receive any Settlement benefits, excluding only a PAGA \ Payment, if you are eligible.
Object to the Settlement	If you wish to object to the Settlement, you must write to the Settlement Administrator, Class Counsel, and Defense Counsel no later than [RESPONSE DEADLINE] , stating each of your objections to the Settlement. If you Opt-Out, you may not object to the Settlement.
Contest or dispute your Workweek or PAGA Pay Period credits	If you wish to contest or dispute the number of workweeks the Settlement Administrator assigns to you for the purpose of calculating your Individual Settlement Payment and/or Individual PAGA Payment, you must write to the Settlement Administrator no later than [RESPONSE DEADLINE] , stating why you dispute the calculation and providing documents supporting what you believe is the correct number of workweeks.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class of persons (the “Settlement Class”):

All current and former hourly non-exempt persons employed by Nieves Landscape, Inc. (hereinafter “Nieves” or “Defendant”) in the State of California during the period from July 1, 2017 through [DATE] (“Class Period”).

According to Nieves’s records, you worked for Nieves during the Class Period and are a member of the Settlement Class (“Class Member”).

What is the Action about?

Plaintiff Perfecto Chavez Gonazalez (“Plaintiff”), individually and on behalf of all others similarly situated, allege the following claims against Nieves: (1) failure to pay overtime wages; (2) failure to provide compliant meal periods and pay meal period premiums; (3) failure to provide compliant rest periods and pay rest period premiums; (4) failure to pay minimum wages; (5) failure to timely pay all wages upon termination; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse necessary business expenses; (8) unfair business practices; (9) failure to pay timely wages pursuant to Labor Code §§ 204 and 210; (10) unlawful deduction of wages (Labor Code § 221); and (11) civil penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Lab. Code, § 2698, et seq.

Nieves denies all liability, and is confident it has strong legal and factual defenses to these claims, but recognizes the risks, distractions, and costs associated with continued litigation. Nieves contends that its business practices are and have been lawful at all relevant times and that Plaintiff’s claims are without merit and fail to satisfy the requirements for class certification.

This Settlement is a compromise, reached after good faith, arm’s-length negotiations between Plaintiff and Nieves and is not an admission of liability by Nieves. All parties agree that, considering the risks and expenses associated with continued litigation, this Settlement is fair, adequate, and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Nieves’ defenses.

Who are the attorneys representing the Class?

PROTECTION LAW GROUP, LLP

HEATHER DAVIS

Email: heather@protectionlawgroup.com

AMIR NAYEBDADASH

Email: amir@protectionlawgroup.com

CARLOS JIMENEZ

Email: carlos@protectionlawgroup.com

237 California Street

El Segundo, California 90245

Telephone: (424) 290-3095

What are the Settlement payment terms?

Gross Settlement Amount. Subject to entry of a Final Approval Order and Final Judgment, Defendant shall pay no less than \$600,000.00 (the “Gross Settlement Amount”) for: (1) Individual Settlement Payments to Class Members; (2) Settlement Administration expenses to the Settlement Administrator; (3) a payment to the California Labor and Workforce Development Agency (“LWDA Payment”); (4) individual PAGA Settlement Payments to eligible persons; (5) a Class Representative Enhancement Payment to Plaintiff for his service as a Class Representative; and (6) Attorneys’ Fees and Costs to Class Counsel.

Net Settlement Amount. Subject to entry of a Final Approval Order and Final Judgment, the following amounts shall be deducted from the Gross Settlement Amount before disbursement of payments to Participating Class Members: Settlement Administration expenses, which the Parties estimate will not exceed \$20,000 to be paid to the Settlement Administrator; a LWDA Payment of \$50,000.00 for PAGA penalties, with 25% of that amount, or \$12,500.00 to be paid as

individual PAGA Settlement Payments to all Settlement Class Members who worked from June 25, 2020 to [DATE] (“the PAGA Period”); a Representative Enhancement Payment of up to \$5,000.00 to be paid to Plaintiff for his efforts in prosecuting the Action as Class Representative; Attorneys’ Fees and Costs of no more than 35% of the Gross Settlement Amount, or \$210,000.00, plus reasonably incurred litigation costs to be paid to Class Counsel for their efforts in prosecuting the Action.

The remaining amount, or the Net Settlement Amount, shall be distributed to Class Members as Individual Class Settlement Payments.

Individual Class Settlement Payments. If you worked for Nieves as a non-exempt employee at any time during the Class Period, you are entitled to an Individual Class Settlement Payment, unless you timely Opt-Out of the Settlement. Your Individual Class Settlement Payment is in exchange for your individual release of the Released Claims against Defendant and the other Released Parties.

Individual PAGA Payments. If you worked for Defendant at any time during the PAGA Period, you are entitled to an Individual PAGA Payment. Because the LWDA Payment is recovered on behalf of the State of California, you may not opt-out of the PAGA Settlement Payment. Such payments shall not constitute consideration offered or exchanged for the release of any recipient’s individual, private rights of action. Accordingly, even if you are eligible to receive an Individual PAGA Settlement Payment, you may still choose to Opt-Out of the Settlement.

Uncashed Checks and Transfer to Cy Pres Recipient. If any checks for Individual Class Settlement Payments and Individual PAGA Settlement Payments remain uncashed 180 days from the date they checks were issued, such uncashed checks shall be rendered void, and the unclaimed funds shall be donated to a non-profit organization approved by the Court. All Class Members who do not Opt-Out shall remain bound by the terms of the Settlement, whether or not they cash their checks.

Reporting of Individual Class Settlement Payments and PAGA Settlement Payments. For tax reporting purposes, all Individual Class Settlement Payments and Individual PAGA Settlement Payments shall be characterized twenty percent (20%) as wages, subject to IRS Form W-2 reporting, and eighty percent (80%) as non-wages, subject to IRS Form 1099 reporting. The Settlement Administrator shall deduct applicable local, state, and federal taxes from the wage portion of the payments and shall issue IRS Form W-2s and IRS Forms 1099s with all checks.

None of the parties or their attorneys make any representations concerning the tax consequences of the Settlement and any individual payment. Persons affected by the Settlement should consult with their own tax advisors concerning the tax consequences of such payments. Class Counsel is unable to offer advice concerning the local, state, or federal tax consequences of individual payments.

How much money should you expect as an Individual Settlement Payment?

Individual Payment Calculations Based on Work Weeks. The Settlement Administrator shall determine the amounts of Individual Class Settlement Payments and Individual PAGA Settlement Payments based on Defendant’s employment records. Payments will be based on the number of work weeks each Class Member worked during the Class Period and/or the PAGA Period, the amount per week calculated by dividing the total number of weeks worked by the Settlement Class during the Class Period (estimated at 112,067) by the Net Settlement Amount.

Weeks Worked and Estimated Individual Payments. Nieves has provided the Settlement Administrator with the dates all Class Members worked during the Class Period and the PAGA Period. Based on Nieves’ records, the Settlement Administrator has determined that you worked the following number of weeks:

<<[Total Workweeks]>> Workweeks

Based on a preliminary determination of the amount to be paid per workweek of <<[X.XX.00]>>, **your estimated Individual Class Settlement Payment and, if applicable, estimated Individual PAGA Settlement Payment are:**

<<[EstSettPayment]>> Estimated Individual Class Settlement Payment

<<[EstPAGAPayment]>> Estimated Individual PAGA Settlement Payment

The foregoing amounts are only estimates before all required legal deductions; your actual payment may be greater or smaller.

Who are the Released Parties and what claims will be released by the proposed Settlement's Released Claims?

Effective Date of Settlement and Release of Class Claims Against Released Parties. On the Effective Date, which is the date that the Court has held a Final Approval Hearing and entered a Final Order and Final Judgment certifying the Settlement Class and finally approving the Settlement, and if there are written objections filed prior to the Fairness Hearing that are not later withdrawn or if any other challenges to the finality of the judgment are filed, then the later of the following events: when the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; or any appeal, writ, or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal, writ, or other appellate proceeding has upheld the Court's Final Order and Final Judgment with no right to pursue further remedies or relief and Nieves pays the Gross Settlement Amount in full, Plaintiff and Class Members shall be deemed to have fully, finally, and forever released:

- The "Released Parties," who consist of Nieves Landscape, Inc., and its past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, assigns, and related companies, and each of their past, present, and future shareholders, members, owners, officers, directors, employees, agents, investment bankers, accountants, insurers, reinsurers, attorneys, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies, and any other individual or entity which could be liable for any of the Released Claims; and
- The "Released Class Claims," which includes all claims, debts, rights, demands, liabilities, obligations and causes of actions that are alleged, or reasonably could have been alleged, based on the facts alleged in the operative Complaint and First Amended Complaint in the Action, including factual claims regarding Defendant's alleged: (i) failure to pay all regular wages, minimum wages and overtime wages due pursuant to California Labor Code sections 510, 1194, 1197, 1197.1, 1198, and 1199, and the Industrial Welfare Commission ("IWC") Wage Orders; (ii) failure to provide meal periods or compensation in lieu thereof pursuant to California Labor Code sections 226.7, 512, and 1198, and the IWC Wage Orders; (iii) failure to provide rest periods or compensation in lieu thereof pursuant to California Labor Code section 226.7 and 1198, and the IWC Wage Orders; (iv) failure to reimburse necessary business expenses, including but not limited to use of personal cell phones and masks, pursuant to Labor Code sections 2800 and 2802 and the IWC Wage Orders; (v) failure to provide complete, accurate wage statements pursuant to Labor Code section 226, 226.3, 1198, and the IWC Wage Orders; (vi) failure to pay wages timely at time of termination or resignation pursuant to Labor Code sections 201, 202, and 203, and the IWC Wage Orders; (vii) failure to provide timely pay wages during employment pursuant to Labor Code sections 204 and 210 and the IWC Wage Orders; (viii) unfair business practices pursuant to Business and Professions Code section 17200 *et. seq.*; and (ix) unlawful collection and/or receipt of employee's wages by employer pursuant to Labor Code section 221 and the IWC Wage Orders; (xii) failure to keep and maintain records pursuant to Labor Code sections 1198.5 and 1174 and the IWC Wage Orders; and other related penalties for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226(a), 226.3, 226.7, 227.3, 246, 510, 512, 558, 598, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2699, 6401, 6403, 17200, the applicable Wage Order of the Industrial Wage Commission, and California Business & Professions Code §§ 17200 to 17208, including without limitation all related claims for restitution and other equitable relief arising from California Business and Professions Code §§ 17200, *et seq.*, interest on unpaid wages, unpaid wages, attorneys' fees or litigation costs, and any other related claims and/or penalties. This release shall apply to claims arising during the Class Period.
- The "Released PAGA Claims," which includes all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 for civil penalties that could have been premised on the facts alleged in Plaintiff's June 25, 2021, October 2, 2023, and October 10, 2023 LWDA Letters, the Complaint, and the First Amended Complaint including but not limited to penalties that could have been awarded pursuant to Labor Code sections 210, 226, 226.3, 1174.5, 1197.1, 558, and 2699.

Effective Date of Settlement and Release of PAGA Claims Against Released Parties. On the Effective Date, the State of California, by and through Plaintiff, its deputized PAGA representative, shall be deemed to have settled and released all PAGA Claims against the Released Parties. "PAGA Claims" means all claims for civil penalties under PAGA due for any violations

by Nieves arising from or related to events alleged in the Action, including, violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 6401, 6403 and all claims or causes of action under PAGA that arose or could have arisen from Plaintiff's PAGA Notice and Amended PAGA Notices filed with the LWDA.

What are my options in this matter?

Your Options. You have four (4) options under this Agreement. The Settlement Administrator is authorized to communicate with you if you exercise any. Additionally, unless you clearly state that you do **not** wish to be contacted, Class Counsel may contact you to resolve any uncertainties about the validity of any Opt-Out Requests, objections, or Work Weeks Dispute you submit.

OPTION 1. Do Nothing. If you wish to remain in the Settlement Class and receive an Individual Class Settlement Payment under the Settlement, **you do not need to take any action.**

If you do nothing, you will remain in the Settlement Class as a Participating Class Member, Class Counsel will represent you for the purposes of this Settlement at no direct cost to you, and you will be deemed to have consented to release the Released Claims against the Released Parties, as described above, on the Effective Date.

OPTION 2. Request to Exclude Yourself or "Opt-Out." If you do not want to participate in the Settlement, **you must timely submit a valid written Request for Exclusion, or Opt-Out Request,** to the Settlement Administrator no later than **[RESPONSE DEADLINE DATE]**. In general, your Opt-Out Request should state that you want to be excluded from the Settlement. Your Opt-Out Request must also state your full name, address, telephone number, the last four digits of your Social Security Number, and the approximate dates you worked as a non-exempt employee for Nieves.

Subject to review by Class Counsel, Defense Counsel, and the Court, the Settlement Administrator shall determine whether a written Opt-Out Request is timely and valid.

If you timely submit a valid written Opt-Out Request, you will have no further role in the Action or the Settlement, and you may not object to the Settlement. However, you may still be eligible for an Individual PAGA Settlement Payment if you worked for Nieves during the PAGA Period.

If you do not timely submit an Opt-Out Request in the manner described above, the Court may determine that you have not opted out and deem you a Participating Class Member, and you will be bound by the Settlement and all its terms, including the release described above.

OPTION 3. Object to the Settlement. If you wish to object to the Settlement, you must timely submit a written objection to the Settlement Administrator, Class Counsel, and Defense Counsel no later than **[RESPONSE DEADLINE DATE]**. In general, your objection should state that you are providing notice of your intent to appear at the Fairness Hearing and list **each specific objection** and any legal support. The objection must also include your full name, address, telephone number, the last four digits of your Social Security Number, and the approximate dates you worked as a non-exempt employee for Nieves. Class Counsel will not assist or represent you for the purposes of objecting to the Settlement. However, you may hire an attorney at your own expense to represent you, including at the Fairness Hearing.

Subject to review by Class Counsel, Defense Counsel, and the Court, the Settlement Administrator shall determine whether a written objection is timely and valid.

If you timely submit a valid written objection and the Court finally approves the Settlement despite your objection, you will likely be bound by the Settlement and all its terms, including the release described above.

OPTION 4. Dispute Your Workweek Assignment. If you disagree with the number of Workweeks preliminarily assigned to you by the Settlement Administrator, you must timely submit a valid written Work Weeks dispute to the Settlement Administrator no later than **[RESPONSE DEADLINE DATE]**. In general, your Workweeks dispute should state **the number of weeks that you contend you worked during the Class Period, and documents supporting your contention.** Your Workweeks dispute must also state your full name, address, telephone number, the last four digits of your Social Security Number, and the approximate dates you worked as a non-exempt employee for Nieves.

Subject to review by Class Counsel, Defense Counsel, and the Court, the Settlement Administrator shall determine whether a written Workweeks dispute is timely and valid.

If you timely submit a valid Workweeks dispute, Nieves' personnel records will be presumed accurate, and the Settlement Administrator will resolve and decide the dispute in your favor if you support your dispute with credible written evidence to the contrary. Disputes submitted within ten (10) days prior to final approval will be resolved prior to final approval. Any decision will be subject to the Court's review and final determination.

If you do not timely submit a Workweeks dispute in the manner described above, the Court may determine that you have waived any challenge to the number of Workweeks assigned to you.

What is the next step in the approval of the Settlement?

The Court will hold the Final Approval or Fairness Hearing **[HEARING DATE & TIME]** in Department 12 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, regarding the fairness, adequacy, and reasonableness of the Settlement. The Fairness Hearing may be rescheduled without further notice. **You are not required to attend the Fairness Hearing to receive an Individual Class Settlement Payment and/or Individual PAGA Settlement Payment.**

If the Court grants final approval of the Settlement, notice of the Final Judgment may be provided by electronic posting on the Settlement Administrator's website (www.lacourt.org) within seven (7) calendar days after entry of the Final Judgment or in another manner other than direct mailing to you.

How can I get additional information?

This Class Notice summarizes the Action and the basic terms of the Settlement. More details are in the Agreement, which, along with other records in the Action, may be available for inspection and/or copying during regular business hours at the Court Clerk's Office or by visiting the Court's Case Access website at lacourt.org. You may also request a copy of the Agreement from Class Counsel at the addresses and telephone numbers listed above.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

[FURTHER WITHHOLDINGS NOTICE]

The Settlement Administrator has identified you as a Class Member but has been unable to verify your social security number or tax identification number. If you do not complete the IRS Form W-9 enclosed with this Class Notice and return it to the Settlement Administrator, then the Settlement Administrator may deduct additional withholdings from your individual Settlement Award. If you have any questions or concerns about completing and returning the enclosed IRS Form W-9, you may contact the Settlement Administrator to discuss other available options to verify your social security number or tax identification number.

[NEXT PAGE – IRS FORM W-9]