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Attorneys for Plaintiffs, on a representative basis and on behalf of the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

LAURA BARBOZA and DAMON POTTER,
individually, on a representative basis, and on
behalf of all others similarly situated;

Plaintiffs,

v.

RUDOLPH FOODS COMPANY, INC., an
Ohio Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CIVSB2129090
*[Assigned to the Hon. Joseph T. Ortiz, Dept.
S17, for all purposes]*

**DECLARATION OF BRIAN J. MANKIN,
ESQ., IN SUPPORT OF MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing:
Date: August 23, 2023
Time: 1:30 p.m.
Dept.: S17

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I am a partner with the law firm of Lauby Mankin Lauby LLP, which has offices in Orange County and Riverside County, and I manage the firm's employment law practice. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiffs' Motion for Final Approval of this Class Action Settlement. If called as a witness, I could and would competently testify thereto.

1 **COUNSEL’S EXPERIENCE**

2 2. I have been a member, in good standing, of the State Bar of California since 2001.
3 I am admitted to practice in the United States District Courts for the Central and Southern
4 District of California and the Ninth Circuit Court of Appeal and have tried cases in various
5 courts in California.

6 3. I have handled well over 500 employee vs. employer litigation matters during my
7 22 years in practice. Over the last 15 years, my practice has almost entirely consisted of
8 representing employees, the majority of which has included class action and representative
9 action wage and hour matters. In total, I have handled over 250 class action and representative
10 action wage/hour cases, and have been appointed by the court as class counsel and have received
11 final court approval and judgment in over half of those actions to date, and anticipate receiving
12 final approval in many more of those in the future.

13 4. As part of these settlements and judgments, I have recovered in excess of \$250
14 million in damages for my clients and the class members (who often work as nurses, ambulance
15 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
16 countless other trades). My team and I once held the record for the largest known PAGA-only
17 case in California’s history - a \$12.5 million-dollar court approved settlement, which followed
18 extensive litigation, summary adjudication and writs to the CA Supreme Court against a Fortune
19 50 company (*Garcia v. Macy’s*, San Bernardino Superior Court).

20 5. I have tried two major class and PAGA cases against Fortune 100 companies. In
21 2018, I was lead counsel in a PAGA case that my firm tried in the Orange County Superior Court
22 and received a \$425,000 judgment. In 2019, I was co-counsel in a class action case against
23 Walmart in District Court, wherein the jury awarded Plaintiffs and the class over \$6 million.
24 Both cases were appealed.

25 6. I was named by the LA Times as one “Southern California Leading Lawyers” in
26 the May 2023 issue of Consumer Attorney’s of Southern California (a recognition given to 17
27 employment/labor law attorneys in 2023). Additionally, over the last five consecutive years, I
28 have been selected by my peers as a “Super Lawyer” in Employment Litigation, a distinction that

only 5% of lawyers receive.

ADEQUACY OF THE SETTLEMENT

7. The Class, as conditionally certified by this Court, consists of 501 current and former non-exempt workers who worked at any Rudolph Foods locations in California at any time from June 14, 2017, through December 20, 2022 (the “Class Period”).

8. As set forth in the Declaration of the Administrator, the Net Settlement Amount is approximately \$732,286.01, after the deductions set forth in the chart below:

<i>Gross Settlement Amount</i>	\$ 1,250,000.00
Attorneys’ Fees (1/3)	\$ 416,666.67
Litigation Costs	\$ 19,882.96
Administrator Costs	\$ 11,164.36
PAGA Penalties	\$ 50,000.00
Class Representative Service Award	\$ 20,000.00
<i>Net Settlement Amount</i>	\$ 732,286.01

9. The process of mailing the Notice Packets was very successful, as all Class Notices were determined to be deliverable, resulting in a 100% success rate in mailing the notices.

10. The response from the Class Members was overwhelmingly positive, as no Class Member has objected to or opted out of the settlement thus far.

11. As discussed at length in Plaintiffs’ motion for preliminary approval, as well as in the Motion for Final Approval, this Settlement is favorable to the Class and the release is narrowly limited to the claims alleged.

12. Sufficient information existed to allow Class Counsel to intelligently value this case. Given the parties’ arms’ length bargaining facilitated by a reputable and experienced wage and hour mediator, the exchange of informal discovery, the experience of Class Counsel, the fact that 100% of the Class has elected to participate and no objections were submitted thus far, the presumption of fairness is justified.

13. I believe that the Settlement is fair, reasonable and adequate, and in the best interests of the Class, given the litigation risks and delay inherent in further litigation and possible appeals. As set forth in Plaintiffs’ motion for preliminary approval and the declarations

submitted in support thereof, Defendant vigorously contested Plaintiffs' claims, and Plaintiffs faced real challenges in certifying the Class and obtaining a recovery on the claims in this matter. Nonetheless, the Parties concluded that further litigation would be protracted and expensive, and that it is desirable that the action be fully and finally settled in the manner and upon the terms and conditions set forth in the Settlement Agreement in order to limit further expense, inconvenience and distraction, to dispose of burdensome and protracted litigation, and to permit the operation of Defendant's business without further expensive litigation and the distraction and diversion of its personnel with respect to matters at issue. All parties took into account the uncertainty of risks inherent in any litigation, especially in complex cases such as this case. The parties determined that it is desirable and beneficial to both the Class and Defendant that this case be settled. Risks on both sides were considered in reaching the Settlement Agreement. The recoveries contemplated by the Settlement represent a good result for the Class, fairly proportioned to the likely risk-adjusted recovery in litigation.

ADEQUACY OF COUNSEL AND
REASONABLENESS OF REQUESTED FEE AND COST AWARDS

14. As set forth above, I have handled over 250 class and representative actions, have been appointed as class counsel and have successfully resolved over half of those cases, and many others remain pending and will successfully resolve in the future while recovering hundreds of millions of dollars for my clients and Class Members. This is substantially better than average accordingly to Mayer Brown LLP's study entitled, *An Empirical Analysis of Class Actions*, cited in *Laguna v. Coverall North America, Inc.*, No. 12-55479 (9th Cir. 2014), which found that only one-third of class actions are successful, compared to two-thirds that are defeated and result in no payment to the class members.¹

15. When this case was taken on a contingency fee basis, with Plaintiffs' counsel agreeing to assume responsibility for all litigation costs, the ultimate result was far from certain. In the course of this litigation, Class Counsel paid all costs including filing fees, court costs,

¹ www.mayerbrown.com/files/uploads/Documents/PDFs/2013/December/DoClassActionsBenefitClassMembers.pdf

1 research fees, and mediation costs. There was never a guarantee that we would recoup those
2 expenditures.

3 16. It has been my experience that the benchmark for attorney fee awards in
4 California state cases is one-third of a common settlement fund, which the CA Supreme Court
5 upheld in the *Robert Half* case. Here, in accordance with the Settlement Agreement, Class
6 Counsel is seeking a fee of one-third of the Settlement Amount.

7 17. There are several additional factors why I believe that the Court should award
8 one-third of the common fund as reasonable attorneys' fees. First, Class Counsel's efforts
9 resulted in a common fund settlement amount of \$1,250,000, whereby the Class Members will
10 receive approximately **\$1,461.65 on average** and **up to a maximum of \$6,517.05** for those
11 employees that worked the entire Class Period. This is an *excellent result* in light of the disputed
12 nature of the claims alleged. This result was achieved by the work and success of my office,
13 who negotiated the settlement after extensive litigation, discovery, preparation, investigation,
14 mediation, and substantial work thereafter.

15 18. Second, Plaintiffs faced significant risks going forward with the litigation. As
16 discussed in the motion for preliminary approval, Defendant raised various defenses throughout
17 this litigation, any one of which, if successful, could have decimated Plaintiffs' case. And
18 Defendant vowed to raise all these defenses at trial. Accordingly, Plaintiffs faced risky issues
19 going forward with this litigation, and it would have taken several more years to realize any
20 recovery in this action along with the possibility of post-trial appeals.

21 19. Third, Class Counsel are experienced class action litigators. This experience and
22 expertise, combined with the high quality of work performed in this case, resulted in the
23 settlement achieved in this case.

24 20. Fourth, Class Counsel have been representing Plaintiffs in this matter strictly on a
25 contingency fee basis. To that end, we have incurred the risk of non-recovery after investing a
26 substantial amount of time, money, and resources, and have done so since the inception of this
27 case without any payment or compensation. If Plaintiffs had lost this case, we would have
28 recovered nothing, and would have lost our out-of-pocket costs. This is not an easy burden for

1 my office, which is a small firm. If, despite these hardships and risks, the best my office could
2 hope for is merely to be paid our hourly rate, then Class Counsel would not be compensated for
3 the hardships and serious risks we faced litigating this contingency case, and would not be
4 incentivized to take on similar cases in the future. Indeed, not all class/PAGA cases are
5 successful. Many cases end with no fees or a greatly reduced fee that is far less than lodestar,
6 often due to no fault of counsel (i.e., bankruptcy, change in the law, consolidation- coordination-
7 preemption, being top filed, etc.). As noted in the Mayer Brown LLP's study discussed above,
8 only one-third of class actions are successful, compared to two-thirds that are defeated and result
9 in no payment to the class members.

10 21. Fifth, the request for attorney's fees in the amount of one-third of the common
11 fund falls well within the norms accepted by state and federal courts in California in comparable
12 wage and hour actions actually handled by my office. Moreover, the award of a one-third fee
13 recovery under the common fund doctrine was recently approved by the California Supreme
14 Court in *Laffitte, supra*, 1 Cal.5th 480, 503.

15 22. For all of the above reasons, a common fund fee award here in the amount of one-
16 third of the common fund created by Plaintiffs and Class Counsel is fair and reasonable.

17 23. At my office, through mediation this case was primarily handled by my associate
18 attorney, Kristina Carlson, while I performed the role of the supervising attorney, but after
19 mediation I took on a leading role in handling the case so that Ms. Carlson could focus on new
20 cases. As set forth in her declaration, Ms. Carlson works exclusively with me on employment
21 law matters and has been in practice for 9 years. She bills at the hourly rate of \$550/hour. I have
22 been in practice for 22 years, with most of those years handling complex litigation and for over
23 the last 15 years, my practice has almost entirely consisted of handling class action wage and
24 hour matters. My billing rate is \$775/hour. I believe these rates are consistent with Plaintiff and
25 Defense attorneys who handle complex class action litigation, if not somewhat lower.

26 24. The hourly rates above are comparable to those of other attorneys with equal or
27 similar experience, if not somewhat lower (i.e., the Laffey Matrix at www.laffeymatrix.com
28 indicates that the benchmark rate for an 8–10-year attorney to be \$676/hour and a 11-19 year

1 attorney at \$764/hour, and a 20+ year attorney at \$919/hour). Moreover, the Wolters Kluwer
2 Real Rate Report (“Real Rate Report”), provides directly applicable information in this regard.
3 The Real Rate Report is based on an enormous and statistically significant compilation of data.
4 For instance, in 2017, the report was based on 25.8 million billing entries and 23.9 million hours
5 billed by over 112,100 individual timekeepers from 4,620 law firms, totaling \$9.02 billion in fees
6 billed. The Real Rate Report then compiles and analyzes this data to provide the hourly rates for
7 partners and associates in major metropolitan areas. In 2018, for the southern California area,
8 which is based on billing entries for 999 partners and 1,361 associates, the Real Rate Report
9 states that: (a) the median rate for partners in Los Angeles is \$695 and the upper quartile is \$995
10 per hour, and (b) the median rate for associates in Los Angeles is \$550 and the upper quartile is
11 \$721 (2018 Kluwer Real Rate Report, page 21). And, perhaps most importantly, the information
12 provided in the Real Rate Report is not based on self-reported numbers, surveys, sampling, or
13 reviews or other publications – instead, the Real Rate Report is based on the actual hours and
14 fees billed by law firms.

15 25. The table below includes a summary of the hours worked by my office and my
16 co-counsel (as reported in their declarations), plus an estimated 35 hours that I will bill in
17 finalizing and filing the motion, preparing for and attending the approval hearing, and working
18 with the Settlement Administrator and defense counsel to finalize this matter. Thus, the actual
19 aggregated lodestar between the attorneys that have worked on this case is approximately
20 \$346,370, resulting in a *small 1.20 multiplier*, which is summarized in the following table:
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Attorney/Timekeeper	Role	Yrs Experience	Rate	Hours	Fee
Brian J. Mankin (Partner – LML)	Trial Counsel	22	\$775	109²	\$84,475
Kristina Carlson (Associate – LML)	Handling Attorney	9	\$550	167.2	\$91,960
Nazo Koulloukian (Principal – Koul Law)	Trial Counsel	14	\$675	213.6	\$144,180
Sahag Majarian (Principal/Owner)	Counsel	32	\$850	30.3	\$25,755
Grand Total for All Attorneys				520.1	\$346,370

26. The fee is warranted because of the results achieved for the Class Members, both in terms of the immediate cash settlement, as well as the fact that the Class Members resoundingly supported the Settlement. Defendant does not oppose this fee request.

27. In the course of prosecuting this action, Class counsel have incurred expenses that were incidental and necessary to the effective representation of the Class. These expenses included but were not limited to: court filings, messenger services, postage, fax transmission expenses, transportation, mediator fees, and other incidental expenses directly related to this action. The Settlement Agreement provided up to \$25,000 in costs. Through final approval, my office incurred \$14,576.85 in litigation costs (see Exhibit “B” attached hereto), plus \$5,306.11 by Koul Law Firm, for total combined costs of \$19,882.96. The saving will be placed in the Net Settlement Amount for payment to the Class Members. Defendant does not oppose this request for costs.

REASONABLENESS OF REQUESTED SERVICE AWARD

28. I also believe that the service award of \$10,000 to each Plaintiff is fair and warranted for the reasons outlined in their declarations and in the motion. They came forward and worked directly with our offices in analyzing the claims and documents, providing valuable information. (See their declarations for supporting information.) Indeed, their participation was

1 an essential element of Defendant's desire to mediate and of the pre and post mediation analysis
2 that allowed Class Counsel to settle the case. In addition to foregoing to separate individual
3 claims, they also took on various risks, including the risk that they could have been ordered to
4 pay Defendant's costs if they lost and the risk of retaliation and being black-balled in the
5 industry. They also provided a full release of all claims. Defendant does not oppose the
6 requested service award.

7 **SUBMISSION TO THE LWDA**

8 29. The Motion and declarations, including the Settlement Agreement, have
9 concurrently been submitted to the LWDA. (See Exhibit "C").

10 **EXHIBITS AND CONCLUSION**

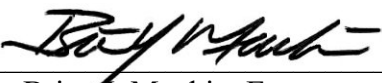
11 30. A true and correct copy of the Settlement Agreement is attached hereto as Exhibit
12 "A."

13 31. Attached hereto as Exhibit "B" is a true and correct copy of an itemized statement
14 of my firm's litigation costs.

15 32. The LWDA's confirmation of receipt of this Motion and Declaration is attached
16 hereto as Exhibit "C."

17 33. For the foregoing reasons, it is respectfully requested that the Court grant final
18 approval of the settlement as being fair, reasonable, and in the best interest of the class, and
19 approve the requested attorneys fees, costs, and service award.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct. Executed on August 1, 2023, at Riverside, California.

22
23 By: 
24 Brian J. Mankin, Esq.

25
26
27
28 ² Includes an estimated 35 hours that will be expended in finalizing the motion, attending the hearing, working with
the parties and administrator regarding the notice and payment process, and filing any post judgment paperwork.

EXHIBIT “A”

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Attorneys for Plaintiff Damon Potter, and all others similarly situated

[Additional Counsel Listed on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

LAURA BARBOZA and DAMON POTTER,
on behalf of all others similarly situated;

Plaintiffs,

vs.

RUDOLPH FOODS COMPANY, INC., an
Ohio Corporation, and DOES 1 through 20,
inclusive;

Defendants.

AND THE CONSOLIDATED/RELATED
ACTIONS.

Case No.: CIVSB2129090

**CLASS AND REPRESENTATIVE
ACTION SETTLEMENT AGREEMENT
AND RELEASE OF CLAIMS**

Consolidated/Related Actions:

- *Barboza v. Rudolph Foods Company, Inc., et al.*; County of San Bernardino, Case No. CIVSB2208663
- *Potter v. Personnel Staffing Solutions Group, Inc., Rudolph Foods Company, Inc., et al.*; County of Riverside, Case No. CVRI2102858

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12 Tel: (949) 833-7800 | Fax: (949) 833-7878

13 Attorney for Defendant, Rudolph Foods Company, Inc.

1 This Class and Representative Action Settlement Agreement and Release of Claims is
2 entered into by and between Plaintiffs Laura Barboza and Damon Potter, individually, on a
3 representative basis, and on behalf of all others similarly situated and the interests of the
4 California Labor and Workforce Development Agency (“LWDA”), and Defendant Rudolph
5 Foods Company, Inc. and is approved by their respective counsel of record, subject to the terms
6 and conditions hereof and the Court’s approval.

7 **A. Definitions**

8 1. “Agreement,” “Settlement” or “Settlement Agreement” shall mean this Class and
9 Representative Action Settlement Agreement and Release of Claims, including any attached
10 Exhibits.

11 2. “Attorney’s Fees and Cost Award” shall have the meaning ascribed to it in
12 Paragraph 49(f) below.

13 3. “Class Counsel” refers to Brian Mankin and Kristina Bui Carlson of Lauby
14 Mankin Lauby LLP, Nazo Koulloukian of Koul Law Firm, and Sahag Majarian II of the Law
15 Offices of Sahag Majarian II.

16 4. “Class Data” means a confidential spreadsheet that includes, for each Settlement
17 Class Member: full names; last known addresses; telephone numbers; Social Security Numbers;
18 the total Weeks Worked during the PAGA Period for each PAGA Member, and the total Weeks
19 Worked during the Class Period for each Settlement Class Member.

20 5. “Class Period” is deemed to be any time during the period June 14, 2017,
21 through December 20, 2022.

22 6. “Class Representatives” or “Plaintiffs” means and refers to Laura Lizbeth
23 Barboza Gomez and Damon Potter.

24 7. “Consolidated Action” or “Lawsuit” means and refers to the following actions:
25 *Damon Potter v. Personnel Staffing Solutions Group, Inc., Rudolph Foods Company, Inc., et al.*
26 (Riverside County Superior Court, Case No. CVRI2102858) (the “Potter Action”), and *Laura*
27 *Barboza v. Rudolph Foods Company, Inc., et al.* (San Bernardino County Superior Court, Case
28 Nos. CIVSB2129090 and CIVSB2208663 (the “Barboza Action(s)”).

1 8. “Consolidated Complaint” refers to the operative complaints on file in the Potter
2 Action and the Barboza Actions, as well as the pending First Amended Complaint filed in the
3 first-filed Barboza Action (San Bernardino County Superior Court, Case No. CIVSB2129090),
4 which was filed on February 6, 2023 that will consolidate and incorporate the Potter Action and
5 the second-filed Barboza Action (San Bernardino County Superior Court, Case No.
6 CIVSB2208663) into the first-filed Barboza Action and therein collectively allege the Released
7 Class Claims and Settled PAGA Claims.

8 9. “Court” means the California Superior Court, County of San Bernardino.

9 10. “Defendant” or “Rudolph Foods” means and refers to Rudolph Foods
10 Company, Inc.

11 11. “Defendant’s Counsel” or “Defense Counsel” means and refers to Nossaman
12 LLP.

13 12. “Effective Date” means the latest of the following dates: (i) if no Class Member
14 timely and properly intervenes or files a motion to vacate the Judgment under Code of Civil
15 Procedure § 663, then the date the Court enters an order granting Final Approval of the
16 Settlement; (ii) if a Class Member intervenes or files a motion to vacate the Judgment, then
17 sixty-one (61) calendar days following the date the Court enters an order granting Final
18 Approval, assuming no appeal is filed; or (iii) if a Class Member timely and properly intervenes
19 or files a motion to vacate the Judgment under Code of Civil Procedure § 663 or initiates
20 another collateral attack, and if a timely appeal is filed, then the date of final resolution of that
21 appeal or other collateral attack (including any requests for rehearing and/or petitions for
22 *certiorari*), resulting in final judicial approval of the Settlement.

23 13. “Escalator Clause” means if the number of Weeks Worked by the Settlement
24 Class during the Class Period is 10% greater or more than the estimated 32,143 Weeks Worked
25 during that period (i.e., more than 35,358 workweeks), the Gross Settlement Amount will
26 increase pro rata per additional Week Worked above 35,358 workweeks.

27 14. “Final Approval” refers to the order of the Court granting final approval of this
28 Settlement Agreement and entering a judgment approving this Agreement on substantially the

terms provided herein or as the same may be modified by subsequent agreement of the Parties.

15. “Final Settlement Class” means, collectively, all Settlement Class Members who have not opted out of the Settlement Class by submitting a timely Request for Exclusion.

16. “Gross Settlement Amount” or “GSA” shall have the meaning ascribed to it in Paragraph 49(a) below.

17. “Individual Settlement Payment” shall have the meaning ascribed to it in Paragraph 49(c) below.

18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 49(b) below.

19. “Notice” means the notice of settlement of class action that will be sent to the Settlement Class Members, a copy of which is attached as **Exhibit “A.”**

20. “Notice Response Deadline” is 30 calendar days from the date the Notice is mailed to the Settlement Class Members.

21. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiffs, who submits a valid and timely objection to the terms of this Agreement with respect to the Settled Class Claims, pursuant to Paragraph 70(c) below.

22. “PAGA Members” means all current and former non-exempt employees who worked at a Rudolph Foods Facility in California at any time during the PAGA Period, including direct hires of Rudolph Foods and temporary employees assigned to work at a Rudolph Foods Facility.

23. “PAGA Penalties” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well as the individual PAGA payment allocated to each PAGA Member.

24. “PAGA Period” is deemed to be any time during the period of June 14, 2020, through December 20, 2022.

25. “Participating Class Member” means any and all Settlement Class Members who are deemed to participate, who will receive an Individual Settlement Payment, and who do not

1 opt-out by submitting a timely valid Request for Exclusion.

2 26. “Parties” or “Settling Parties” mean Plaintiffs, the Settlement Class, and
3 Defendant, collectively.

4 27. “Preliminary Approval Date” means the date the Court approves the Settlement
5 Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

6 28. “Preliminary Approval Order” means the judicial Order to be entered by the
7 Court, upon the application or motion of the Plaintiffs, preliminarily approving this Settlement
8 and providing for the issuance of the Notice to the Settlement Class, an opportunity to opt out of
9 the Settlement, an opportunity to submit timely objections to the Settlement, and setting a
10 hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees and
11 costs. Defendant will not object to Plaintiffs’ motion for preliminary approval, but will be
12 provided with an opportunity to review and comment upon the motion at least ten days before it
13 is filed.

14 29. “QSF” means the Qualified Settlement Fund set up by the Settlement
15 Administrator for the benefit of the Final Settlement Class, and from which the settlement
16 payments shall be made, and which is intended to be a fund that qualifies under Internal
17 Revenue Code Sec. 468.

18 30. “Released Parties” means Defendant and its affiliated companies, parents,
19 members, subsidiaries, related companies and business concerns, past and present, including
20 their predecessors and successors, and each of them, as well as each of their insurers, partners,
21 trustees, directors, owners, shareholders, officers, agents, attorneys, servants, joint employers
22 and employees, temporary service providers and staffing agencies employing temporary
23 employees for the time worked at the Rudolph Foods Facility, past and present, and each of
24 them and anyone acting in concert with foregoing.

25 31. “Release” shall mean the release and discharge of the Settled Class Claims by
26 Plaintiffs and all of the Participating Class Members and the release and discharge of the Settled
27 PAGA Claims by Plaintiffs and all of the PAGA Members. The *res judicata* effect of the
28 Judgment will be the same as that of the Release of the Settled Class Claims and Settled PAGA

1 Claims.

2 32. "Request for Exclusion" means and refers to a valid and timely request for
3 exclusion from the Settlement of the Settled Class Claims, which may be submitted by any
4 Settlement Class Member, other than Plaintiffs, pursuant to Paragraph 70(a) below.

5 33. "Rudolph Foods Facility" means the warehouses and facilities in California that
6 Rudolph Foods owned or operated, including but not limited to in San Bernardino and
7 Beaumont, California.

8 34. "Service Payment" or "Service Award" means the amount approved by the Court
9 to be paid to the Class Representatives in addition to their Individual Settlement Payment as a
10 Participating Class Member.

11 35. "Settled Class Claims" or "Class Claims" by the Participating Class Members
12 upon Final Approval of the Settlement will include all causes of action and claims, charges,
13 complaints, liens, demands that were alleged in the Consolidated Complaint or reasonably could
14 have been alleged based on the allegations, the facts, statutory citation and/or legal theories
15 contained in the Consolidated Complaint, including all of the following claims for relief: (a)
16 failure to pay minimum wages, (b) failure to pay for all hours worked, including overtime
17 wages, (c) failure to provide compliant meal periods, (d) failure to provide compliant rest
18 breaks, (e) failure to timely pay wages, including final wages, (f) failure to provide accurate
19 itemized wage statements, (g) unfair and unlawful competition, (h) failure to provide proper
20 cool-down rest periods, (i) failure to provide suitable seating, (j) failure to reimburse for
21 required business expenses, (k) failure to pay all required sick pay, (l) failure to provide safe
22 and healthful working conditions; and (m) all other claims for statutory penalties based on the
23 facts or claims alleged in the Consolidated Complaint (the "Released Class Claims"). These
24 claims and their related recovery provisions include, but are not limited to, California Labor
25 Code sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5, 226, 226.3, 226.7, 227.3, 246, 510,
26 512, 558, 558.1, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2800, 2802 and
27 all related provisions of the California Code of Regulations, California Industrial Wage Orders,
28 California Health and Safety Code sections 6400 *et seq.*, and California Business & Professions

Code sections 17200 *et seq.* The release of the foregoing claims extends to all theories of relief regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, or different right or duty of an alleged statute, whether under federal law, state law or common law (including, without limitation, as violations of the California Labor Code, Industrial Wage Orders, applicable regulations, California Health and Safety Code, and California Business and Professions Code). “Settled Class Claims” includes all types of relief available for the above-referenced claims, including, without limitation, any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. The time period governing the Settled Class Claims shall be the same as the Class Period.

36. “Settled PAGA Claims” means any and all claims for civil penalties under the Private Attorneys General Act, Labor Code § 2698 *et seq.*, that Plaintiffs alleged against the Released Parties, on behalf of PAGA Members and State of California, based on the facts stated in the Consolidated Complaint and in Plaintiffs’ notice letters to the LWDA (including any amendments thereto), or reasonably could have been alleged based on the allegations, the facts, statutory citation and/or legal theories under the PAGA contained in the Consolidated Complaint, including, but not limited to, all of the following claims for relief: (a) failure to pay minimum wages, (b) failure to pay for all hours worked, including overtime wages, (c) failure to provide compliant meal periods, (d) failure to provide compliant rest breaks, (e) failure to timely pay wages each period and upon separation of employment, (f) failure to provide accurate itemized wage statements and violation of recordkeeping requirements, (g) failure to provide safe and healthful working conditions, (h) failure to provide proper cool-down rest periods, (i) failure to provide suitable seating, (j) failure to reimburse for required business expenses, (k) failure to pay all required sick pay, and (l) all other claims for PAGA penalties based on the facts or claims alleged in the Consolidated Complaint. These claims and their related recovery provisions include, but are not limited to, California Labor Code sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 558.1, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2800, and 2802 and all related

provisions of the California Code of Regulations, the California Industrial Wage Orders, and California Health and Safety Code sections 6400 *et seq.* The time period governing the Settled PAGA Claims shall be any time during the PAGA Period.

37. “Settlement Administrator” means and refers to Phoenix Settlement Administrators, the third-party class action settlement administrator based on low bid or mutually agreed to by the Parties that will provide the Notice Packet to the Class Members and distribute the settlement amounts as described in this Agreement.

38. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property due diligence, reporting and remittance obligations, distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs necessary to administer the Settlement.

39. “Settlement Class” consists of current and former non-exempt employees who worked at a Rudolph Foods Facility in California at any time during the Class Period, including direct hires of Rudolph Foods and temporary employees assigned to work at a Rudolph Foods Facility.

40. “Settlement Class Member” or “Class Member(s)” refers to individual members of the Settlement Class.

41. “Weeks Worked” or “Eligible Weeks,” in the context of Settlement Class Members, means all weeks during the Class Period in which the Settlement Class Member was worked at least one shift during the week at the Rudolph Foods Facility. Likewise, in the context of PAGA Members, it means all weeks during the PAGA Period in which the PAGA Member worked at least one shift during the week at the Rudolph Foods Facility.

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1 **B. General Terms and Recitals**

2 42. The Potter Action was initially filed in the Riverside County Superior Court as a
3 class action on June 14, 2021, and was subsequently amended on August 20, 2021 to add
4 corresponding PAGA claims. The Barboza Actions were separately filed in the San Bernardino
5 County Superior Court, first as a representative PAGA action on November 22, 2021 and then
6 as a class action on May 19, 2022. In preparation for Court approval of settlement, Plaintiffs
7 agreed to proceed in one Consolidated Action.

8 43. Defendant and the Released Parties specifically and generally deny any and all
9 liability or wrongdoing of any sort with regard to the claims alleged, make no concessions or
10 admissions of liability of any sort, and contend that for any purpose other than settlement, the
11 Consolidated Action is not appropriate for class or representative action treatment.

12 44. The Class Representatives believe they can proceed with their representative and
13 class claims, that the Consolidated Action is meritorious, and that class certification is
14 appropriate.

15 45. The Parties have conducted a thorough investigation into the facts of the
16 Consolidated Action. In preparation for mediation, the parties exchanged discovery informally,
17 including Defendant's written policies and practices and the production of payroll records,
18 timekeeping records, and employment status for Settlement Class Members. Class Counsel
19 represent, and Defendant understands, that each has diligently pursued an investigation of the
20 proposed Class Members' and PAGA Members' claims against Defendant and is both
21 knowledgeable about the claims and damages, and has done extensive research with respect to
22 the applicable law and potential defenses to the claims. Class Counsel represent, and Defendant
23 understands, that each has diligently pursued an investigation of the Class Members' claims
24 against Defendant. Based on the foregoing data and on their own independent investigation and
25 evaluation, Class Counsel is of the opinion that the settlement with Defendant for the
26 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and
27 adequate and is in the best interest of the Class Members and PAGA Members/LWDA in light
28 of all known facts and circumstances, including the risk of significant delay and uncertainty

1 associated with litigation, various defenses asserted by Defendant, and numerous potential
2 appellate issues.

3 46. On October 20, 2022, Plaintiffs and Defendant participated in a private
4 mediation before Steve Rottman, Esq., one of the most highly experienced and respected class
5 action mediators in California. The matter resolved at mediation globally pursuant to a
6 mediator's proposal, conditioned upon the filing of the Consolidated Complaint. At all times,
7 the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

8 47. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
9 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and
10 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
11 any statute or law or liability on the claims or allegations in the Action.

12 48. Stipulation for Class Certification and Representative Treatment. For settlement
13 purposes only, Defendant will stipulate that the Settlement Class Members described herein
14 who do not submit a Request for Exclusion from the Settlement Class may be conditionally
15 certified as a settlement class and that the PAGA Members are appropriate for representative
16 treatment for purposes of settlement. This stipulation to certification and representative
17 treatment is in no way an admission that class action certification and/or representative
18 treatment is proper and shall not be admissible in this or in any other action except for the sole
19 purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to issue Final
20 Approval, the Parties' stipulation to class certification and representative treatment as part of the
21 Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be
22 admissible in connection with, the issue of whether or not certification and/or representative
23 treatment would be appropriate in a non-settlement context. Defendant expressly reserves its
24 rights and declares that it would continue to oppose class certification, representative treatment,
25 and the substantive merits of the case should the Court decline to issue Final Approval.
26 Plaintiffs expressly reserve their rights and declare that they will continue to pursue class
27 certification, representative treatment, and a trial should the Court decline to issue Final
28 Approval.

1 **C. Terms of Settlement**

2 49. The financial terms of the Settlement are as follows:

3 (a) Gross Settlement Amount: The Parties agree to settle this Consolidated
4 Action for One Million Two Hundred and Fifty Thousand Dollars and No Cents (\$1,250,000)
5 (“the Gross Settlement Amount”). The Gross Settlement Amount is the maximum amount that
6 will be paid by Defendant (except for the employer’s share of payroll taxes and withholdings
7 and subject to the Escalator Clause), and includes Individual Settlement Payments, Attorneys’
8 Fees and Costs Award, the Service Payment to the Class Representatives, all Settlement
9 Administration Costs, and PAGA Penalties. Defendant shall separately pay the employers’
10 share of applicable payroll tax obligations, which shall be reported through the Settlement
11 Administrator.

12 (b) Net Settlement Amount: The “Net Settlement Amount” is defined as the
13 Gross Settlement Amount less the Attorneys’ Fees and Costs Award, the Service Payment to the
14 Class Representatives, as approved and awarded by the Court, the Settlement Administration
15 Costs, as approved and awarded by the Court, and PAGA Penalties. If the Court reduces the
16 Attorneys’ Fees and Costs Award, Service Awards, or Settlement Administrator Costs, or either
17 increases or decreases the amount allocated to the PAGA Penalties, the Net Settlement Amount
18 shall be increased or decreased accordingly, and the increase or decrease shall not impact the
19 validity and enforceability of the Settlement.

20 (c) Individual Settlement Payments for the Settlement Class: Individual
21 Settlement Payments will be calculated and apportioned from the Net Settlement Amount based
22 on the number of Eligible Weeks a Settlement Class Member worked during the Class Period.
23 Specific Calculations of Individual Settlement Payments will be made as follows:

- 24 • Defendant will calculate the total number of Weeks Worked by each
25 Settlement Class Member during the Class Period and the aggregate total
26 number of Weeks Worked by all Settlement Class Members during the Class
27 Period.
28 • To determine each Settlement Class Member’s estimated Individual

1 Settlement Payment, the Settlement Administrator will use the following
2 formula: The Net Settlement Amount will be divided by the aggregate total
3 number of Weeks Worked, resulting in the "Week Value." Each Settlement
4 Class Member's Individual Settlement Payment will be calculated by
5 multiplying his or her total number of Weeks Worked during the Class
6 Period by the Week Value.

- 7 • Individual Settlement Payments will be reduced by any required deductions
8 for each Participating Class Member as specifically set forth herein,
9 including employee-side tax withholdings and deductions.
- 10 • The entire Net Settlement Amount will be disbursed to all Participating Class
11 Members. If there are any valid and timely Requests for Exclusion, the
12 Settlement Administrator shall proportionally increase the Individual
13 Settlement Payment for each Participating Class Member according to the
14 number of Weeks Worked, so that the amount actually distributed to the
15 Settlement Class equals 100% of the Net Settlement Amount.
- 16 • The Parties acknowledge and agree that the formula used to calculate
17 Workweeks, individual Settlement Payments, PAGA Workweeks and PAGA
18 payments does not imply that all of the elements of damages covered by the
19 release are not being taken into account. The above formulas were devised
20 as practical and logistical tools to simplify the payment process.

21 (d) Allocation of Individual Settlement Payments: The Individual Settlement
22 Payments will be allocated based on the allegations in the Action as follows: 20% will be
23 allocated as wages subject to withholding of all applicable local, state and federal taxes; 80% to
24 interest and statutory penalties (pursuant to, e.g., California Labor Code sections 203, 210, 226,
25 2699) from which no taxes will be withheld. The Settlement Administrator will issue to each
26 Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms
27 with respect to the wage allocation and a Form 1099 with respect to the penalties and interest
28 allocations.

1 (e) Service Payment to Class Representatives: The amounts, if any, awarded
2 to the Class Representatives as a Service Payment will be set by the Court in its discretion in
3 exchange for the services Plaintiffs performed on behalf of the Class and for entering into the
4 general release of all claims discussed hereinafter. The Service Payments are not to exceed the
5 following amounts: \$10,000 to Damon Potter and \$10,000 to Laura Barboza. Defendant agrees
6 not to oppose these requests. Plaintiffs will not request exclusion from the Settlement Class.
7 The Service Payment to Plaintiffs will be paid out of the Gross Settlement Amount. The Class
8 Representatives will be issued IRS Form 1099 in connection with this payment and shall be
9 solely and legally responsible to pay any and all applicable taxes on this payment. The Parties
10 agree that any amount awarded as the Service Payment to Plaintiffs less than the requested
11 amount shall not be a basis for Class Counsel to void this Settlement Agreement nor to appeal
12 this aspect of the Court's ruling. Should the Court approve a lesser amount for the Service
13 Payment, the difference shall be added to the Net Settlement Amount to be distributed to the
14 Participating Class Members.

15 (f) Attorneys' Fees and Costs Award: Defendant agrees to not oppose a
16 request by Class Counsel to the Court for an award of attorneys' fees of not more than one-third
17 (1/3) of the Gross Settlement Amount (\$416,666.67), subject to Court approval, plus reasonable
18 litigation costs not to exceed \$25,000, which shall be allocated according to proof and subject to
19 Court approval ("Attorney's Fees and Cost Award"). Defendant agrees not to oppose any
20 contention by Class Counsel that attorneys' fees should be based on the common fund theory.
21 The Attorney's Fee and Cost Award shall be paid from the Gross Settlement Amount, and
22 except for this award, Defendant shall have no further obligation to pay any attorneys' fees,
23 costs or expenses to Class Counsel. Should the Court approve a lesser amount than what is
24 sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be
25 distributed to the Participating Class Members. The Parties agree that any amount awarded as
26 attorneys' fees and costs to Class Counsel less than the requested amount shall not be a basis for
27 Class Counsel to rescind or otherwise void this Settlement Agreement. The Settlement
28 Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of

attorneys' fees and costs awarded by the Court.

(g) Settlement Administration Costs: The fees and other charges of the Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed \$10,000, unless approved by all Parties and the Court.

(h) PAGA Penalties: The Parties agree that \$50,000 is allocated to PAGA Penalties and is to be paid from the Gross Settlement Amount, subject to Court approval. Of this amount, \$37,500 (75%) shall be paid to the LWDA in satisfaction of civil penalties under the Private Attorney General Act of 2004 ("PAGA") and \$12,500 (25%) will be paid to the PAGA Members on a Weeks Worked basis, which will be treated entirely as civil penalties and shall be reported as required on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA of the Settlement.

(i) Tax Liability: Class Counsel, Defendant, and Defendant's counsel make no representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder, and Plaintiffs and the Settlement Class Members are not relying on any statement or representation by Class Counsel, Defendant, or Defendant's counsel in this regard. Plaintiffs, Participating Class Members, and PAGA Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Amounts described herein. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes. Plaintiffs, Participating Class Members, and PAGA Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein and will hold

1 Defendant harmless from and against any claims resulting from treatment of such payments as
2 non-taxable damages.

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

27 50. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
28 Participating Class Members under this Agreement, as well as any other payments made

pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase or other types of equity plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any Settlement Class Members may be entitled under any benefit plans. The Parties agree that the amounts paid pursuant to this Settlement are not for days or hours worked, and are not included toward any regular rate of pay calculation, or any benefit vesting or accrual purpose.

51. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Gross Settlement Amount revert to Defendant. Participating Class Members will not have to make a claim in order to receive an Individual Settlement Payment, and PAGA Members will not have to make a claim in order to receive their share of PAGA Penalties. Distributions, in the form of Individual Settlement Payments, will be made directly to each Participating Class Member and PAGA Member. The Settlement Administrator shall be responsible for accurately and timely reporting and remittance obligations with respect to unclaimed funds as a result of a Participating Class Member or PAGA Member not cashing an Individual Settlement Payment by the check cashing deadline, as set forth herein.

52. Class Counsel and Plaintiffs believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. Release by Participating Class Members, LWDA and PAGA Members

53. Settled Class Claims. Upon entry of the Final Approval Order and Defendant's funding of the Settlement Amount, the Participating Class Members will forever completely release and discharge the Released Parties from the Settled Class Claims for the Class Period. It is the intent of the Parties that the Final Approval Order and judgment entered by the Court shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding upon Participating Class Members regarding the Settled Class Claims.

1 54. Each Participating Class Member will be deemed to have made the foregoing
2 Release as if by manually signing it.

3 55. Plaintiffs and Defendant intend that the Settlement described in this Agreement
4 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
5 arbitration, demand, or other action of any kind, by each and all of the Participating Class
6 Members to obtain a recovery based on, arising out of, and/or related to any and all of the
7 Settled Class Claims. The Class Members shall be so notified in the Notice. This paragraph
8 only applies to Participating Class Members and, thus, does not apply to any Class Member
9 who timely and validly submits a Request for Exclusion, nor does it apply to PAGA Members
10 with respect to the Settled PAGA Claims.

11 56. Settled PAGA Claims. Upon entry of the Final Approval Order and Defendant's
12 funding of the Settlement Amount, Plaintiffs, standing in the shoes of the Labor
13 Commissioner/LWDA, and on behalf of the State of California and all PAGA Members, will
14 forever completely release and discharge the Released Parties from the Settled PAGA Claims
15 through the PAGA Period. It is the intent of the Parties that the Final Approval Order and
16 judgment entered by the Court shall have full equitable and collateral estoppel and *res judicata*
17 effect and be final and binding upon PAGA Members regarding the Settled PAGA Claims.

18 57. Plaintiffs and Defendant also intend that the Settlement described in this
19 Agreement will release and preclude any further PAGA claim to obtain a recovery based on,
20 arising out of, and/or related to any and all of the Settled PAGA Claims. The PAGA Members
21 shall be so notified in the Notice and Class Counsel shall provide appropriate notice to the
22 LWDA of this Agreement prior to the filing of the Motion for Preliminary Approval. This
23 section is not intended to preclude any PAGA Member other than Plaintiffs from bringing any
24 claim other than the Settled PAGA Claims.

25 58. Labor Code Section 206.5. Class Representatives, on behalf of themselves and
26 the Participating Class Members, acknowledge and agree that the claims alleged in the
27 Consolidated Complaint or that could have reasonably been alleged, including claims for unpaid
28 wages and untimely payment of wages, are disputed, and that the payments set forth herein

1 constitute payment of all sums allegedly due to them.

2 **E. Release by Plaintiffs/Class Representatives**

3 59. As a material inducement to Defendant to enter into this Settlement Agreement,
4 Class Representatives do hereby, for themselves and for their respective spouses, heirs,
5 successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators,
6 guardians, personal representatives, and assigns forever and completely release and discharge
7 the Released Parties from any and all charges, complaints, claims, liabilities, obligations,
8 promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands,
9 costs, losses, debts, and expenses (including back wages, statutory penalties, civil penalties,
10 liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature
11 whatsoever, from the beginning of time through the execution of this Agreement, whether
12 known or unknown, suspected or unsuspected, including but not limited to all claims arising out
13 of, based upon, or relating to Class Representatives' employment with Defendant or the
14 remuneration for or termination of such employment (collectively, the "Class Representatives'
15 Claims"). In addition, Plaintiff Cortes and Defendant have agreed to enter into a confidential,
16 individual settlement agreement and general release.

17 60. Without limiting the generality of the foregoing, this general release by Class
18 Representatives includes all claims or rights arising out of alleged violations of any contracts,
19 express or implied (including but not limited to any contract of employment); any contract or
20 covenant of good faith or fair dealing (express or implied); any tort, including negligence, fraud,
21 misrepresentation under California Labor Code 970, negligent infliction of emotional distress,
22 intentional infliction of emotional distress, and defamation; any "retaliation" claims; any claims
23 relating to any breach of public policy; and all federal, state, local and other governmental
24 statutory claims, regulations, and ordinances, and federal and state common law claims
25 (including but not limited to those for contract, tort and equity), including without limitation the
26 , Age Discrimination in Employment Act,), 42 USC sec. 1981, 42 USC sec. 1983, the Fair
27 Labor Standards Act, the California Constitution, the California Unfair Competition Act
28 (California Business and Professions Code section 17200 *et seq.*), Title VII of the Civil Rights

1 Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment,
2 including retaliation for reporting discrimination or harassment), sections 503 and 504 of the
3 Rehabilitation Act of 1973 (disability discrimination), the Equal Pay Act, 29 U.S.C. § 209(4)(1)
4 (equal pay), the Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability
5 discrimination), the Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical
6 leave), the California Fair Employment and Housing Act, Cal. Gov't Code § 12900, *et seq.*
7 (discrimination or harassment in employment and/or housing, including discrimination or
8 harassment based on race, religious creed, color, national origin, ancestry, physical or mental
9 disability, marital status, sex (including pregnancy), sexual orientation, genetic, or age,
10 including retaliation for reporting discrimination or harassment), the California Family Rights
11 Act, Cal. Gov't Code § 12945.1, *et seq.* (family/medical leave), the California Labor Code or
12 any Industrial Welfare Commission Wage Order, Executive Order 11246 (race, color, religion,
13 sex, and national origin discrimination or harassment), Executive Order 11141 (age
14 discrimination), and the Employee Retirement Income Security Act, 29 U.S.C. § 1000, *et seq.*
15 (employee benefits).

16 61. Class Representatives agree that there is a risk that any injury that they may have
17 suffered by reason of the Released Parties' relationship with them might not now be known, and
18 there is a further risk that said injuries, whether known or unknown at the date of this Settlement
19 Agreement, might possibly become progressively worse, and that as a result thereof further
20 damages may be sustained. Nevertheless, Class Representatives agree to forever and fully
21 release and discharge the Released Parties, and understands that by the execution of this
22 Settlement Agreement no further claims for any such injuries that existed at the time of the
23 execution of this Settlement Agreement may ever be asserted by Class Representatives with
24 respect to claims arising in the time period from the beginning of time to the execution of this
25 Settlement Agreement.

26 62. Class Representatives expressly waive and relinquish all rights and benefits
27 afforded by Section 1542 of the Civil Code of the State of California and do so understanding
28 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil

1 Code of the State of California states:

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

9 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
10 full and complete release and discharge of all parties, Class Representatives and Class Counsel
11 expressly acknowledge that this Settlement Agreement is intended to include in its effect,
12 without limitation, all claims whether known or unknown, suspected or unsuspected, contingent
13 or non-contingent, that now exist, upon any theory of law or equity, including without
14 limitation, conduct which is negligent, intentional, with or without malice, or a breach of any
15 duty, law, or rule, without regard to the subsequent discovery or existence of such different or
16 additional facts, in favor of the Class Representatives against the Released Parties, or any of
17 them, for the time period from the beginning of time to the execution of this Settlement
18 Agreement, and that this Settlement Agreement contemplates the extinguishment of any such
19 Class Representatives' claims. Notwithstanding the above, the general release by Class
20 Representatives shall not extend to claims for workers' compensation benefits, claims for
21 unemployment benefits, or other claims that may not be released by law.

22 **F. Interim Stay of Proceedings**

23 63. Pending completion of all of the prerequisites necessary to effectuate this
24 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the
25 Action except such as are necessary to effectuate the Settlement.

26 **G. Notice Process**

27 64. Appointment of Settlement Administrator. The Parties have agreed to the
28 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
including mailing the Notice, using standard devices to obtain forwarding addresses,
independently reviewing and verifying documentation associated with any claims or opt-out

requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Payments, drafting and mailing the settlement checks to Participating Class Members, and PAGA Members, issuing W-2 and 1099 Tax Forms, unclaimed funds due diligence, reporting and remittance obligations, and performing such other tasks as set forth herein or as the Parties mutually agree or that the Court orders. The Settlement Administrator (along with any of its agents) shall represent and warrant that it will: (a) provide reasonable and appropriate administrative, physical and technical safeguards for any personally identifiable information (“PII”), which it receives from Defendant; (b) not disclose the PII to Class Counsel, Plaintiffs, any party or third parties, including agents or subcontractors, without Defendant’s consent; (c) not disclose or otherwise use the PII other than to carry out its duties as set forth herein; (d) promptly provide Defendant with notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction; and (e) continue to protect the PII upon termination of its services.

65. Disputes Regarding Settlement Administration. Any and all disputes relating to administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendant notify the Court that all payments and obligations contemplated by this Settlement Agreement have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court intervention. The Settlement Administrator shall also be responsible for issuing to Plaintiffs, Participating Class Members, PAGA Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be responsible for setting up all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate government authorities.

66. Class Data. Within 21 days after entry of the Preliminary Approval Order, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement Administrator will run a check of the Class Members’ addresses against those on file with the

1 U.S. Postal Service's National Change of Address List. The Class Data provided to the
2 Settlement Administrator will remain confidential, shall be used solely to administer the
3 Settlement, and it will not be used or disclosed to anyone (including Class Counsel), except as
4 required by applicable tax authorities, pursuant to Defendant's express written consent, or by
5 order of the Court. Although Class Counsel will not be provided with the list of Class Data,
6 nothing herein shall prevent Class Counsel from communicating with Class Members regarding
7 the Action and Settlement.

8 67. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
9 Administrator to the Settlement Class Members, by first class mail, in English and Spanish,
10 within thirty (30) calendar days following the Settlement Administrator's receipt of the Class
11 Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain
12 forwarding addresses of Settlement Class Members if any envelopes are returned.

13 68. Returned Notices. The Settlement Administrator will take steps to ensure that
14 the Notice is received by all Settlement Class Members, including utilization of the National
15 Change of Address Database maintained by the United States Postal Service to review the
16 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any
17 Settlement Class Member for whom an updated address is located within ten (10) calendar days
18 following both the Settlement Administrator learning of the failed mailing and its receipt of the
19 updated address. The Notice shall be identical to the original Notice, except that it shall notify
20 the Settlement Class Member that the exclusion (opt-out) request or objection must be returned
21 by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the
22 Notice.

23 69. Disputes Regarding Information on Notices. Class Members are deemed to
24 participate in the Settlement, unless they opt-out, and PAGA Members may not opt out of the
25 Settled PAGA Claims. The Notice will inform Class Members of his/her estimated Individual
26 Settlement Payment and the number of Weeks Worked during the Class Period and during the
27 PAGA Period. Class Members may dispute their Weeks Worked if they feel they should be
28 credited with more Eligible Weeks than the Class Data shows by timely submitting evidence to

1 the Settlement Administrator. The Class Data will be presumed determinative absent reliable
2 evidence to rebut it, but the Settlement Administrator will evaluate the evidence submitted by
3 the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel
4 who agree to meet and confer in good faith about the evidence to determine the Class Member's
5 actual number of Weeks Worked and estimated Individual Settlement Payment. If Class
6 Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the
7 Settlement Administrator to render a final decision. Class Members will have until the Notice
8 Response Deadline to dispute Weeks Worked, object or opt out, unless extended by the Court.
9 In the event that the Settlement Administrator increases the number of Weeks Worked for any
10 Settlement Class Member, then the Settlement Administrator will recalculate the Participating
11 Class Members' Individual Settlement Payments; accordingly, in no event will Defendant be
12 required to increase the Gross Settlement Amount.

13 70. Settlement Class Members' Rights. Each Settlement Class Member will be fully
14 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
15 Settled Class Claims, and the ability to opt-out or request exclusion from the Settlement with
16 respect to the Settled Class Claims. The Notice will inform the Settlement Class Members of
17 the Court-established deadlines for filing objections or requesting exclusion from the Settlement
18 with respect to the Settled Class Claims in accordance with the following guidelines:

19 (a) Requests for Exclusion from Participating in the Settlement Class. Any
20 Settlement Class Member, other than Plaintiffs, may request to be excluded from the Settlement
21 Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on
22 or before the Notice Response Deadline. The Request for Exclusion should state:

23 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT
24 CLASS IN THE RUDOLPH FOODS LAWSUIT. I
25 UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM
26 THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY
MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS
IN THIS LAWSUIT."

27 To be valid, any Request for Exclusion must include the full name, address, telephone
28 number, last four digits of the social security number or date of birth, and signature of the

1 Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by
2 mail to the Settlement Administrator at the specified address or fax number. Any such Request
3 must be made in accordance with the terms set forth in the Notice. A Request for Exclusion
4 will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise
5 agree in writing. Any Settlement Class Member who timely requests exclusion in compliance
6 with these requirements: (i) will not have any rights under this Agreement with respect to the
7 Settled Class Claims, including the right to object, appeal, or comment on the Settlement; (ii)
8 will not be entitled to receive any payments under this Agreement for the Settled Class Claims;
9 and (iii) will not be bound by this Agreement, or the Judgment, with respect to the Settled Class
10 Claims. Any PAGA Member who requests timely exclusion will still be subject to the Settled
11 PAGA Claims to the fullest extent permitted by law and shall be sent his or her share of PAGA
12 Penalties.

13 (b) Binding Effect on Participating Class Members. Except for those
14 Settlement Class Members who exclude themselves in compliance with the procedures set forth
15 above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for
16 all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
17 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
18 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
19 reasonableness, and adequacy of the Settlement.

20 (c) Objections to Settlement of the Settled Class Claims. Any Settlement
21 Class Member, other than Plaintiffs, may object to the terms of this Agreement, except as to the
22 Settled PAGA Claims. To object, a Settlement Class Member shall inform the Settlement
23 Administrator, in writing, of his or her objection which must be postmarked by the Notice
24 Response Deadline at the address set forth in the Notice. Such objection shall include the
25 objecting Settlement Class Member's full name, address, telephone number, and dates of
26 employment with Defendant, the case name and number, the basis for the objection, including
27 any legal support and each specific reason in support of the objection, as well as any
28 documentation or evidence in support thereof, and, if the Objecting Settlement Class Member is

1 represented by counsel, the name and address of his or her counsel. The Settlement
2 Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within
3 three (3) calendar days of receipt, and the Settlement Administrator shall attach the same to its
4 declaration of due diligence and file with the Court prior to the Final Approval Hearing. Any
5 Participating Class Member who files an objection remains eligible to receive monetary
6 compensation from the Settlement. Plaintiffs and Defendant shall not be responsible for any
7 fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any
8 objections to the Settlement. Submitting an objection does not preserve the right to appeal a
9 final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely
10 and properly intervening or filing a motion to vacate the judgment under Code of Civil
11 Procedure Section 663. To the extent a Class Member submits a Request for Exclusion and
12 objection, the objection shall be disregarded and the Class Member shall be excluded from the
13 Class. Settlement Class Members and PAGA Members may not object to or opt-out of the
14 Settlement with respect to the PAGA Claims.

15 (d) Failure to Object. Any Settlement Class Member who desires to object to
16 the Settled Class Claims in the Settlement but fails to timely submit a written objection or in
17 person objection at the Final Approval Hearing waives any right to object and will be foreclosed
18 from making any objection to this Settlement. Any Settlement Class Member who does not
19 timely and properly become a party of record by intervening or filing a motion to vacate the
20 judgment waives any and all rights to appeal from the Judgment, including all rights to any
21 post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment,
22 motion for new trial, a motion under California Code of Civil Procedure Section 473, and
23 extraordinary writs.

24 (e) Responses to Objections. Counsel for the Parties may file a response to
25 any objections submitted by objecting Settlement Class Members at least five (5) court days
26 before the date of the Final Approval Hearing.

27 (f) Settlement Class Members will have until the Notice Response Deadline
28 to object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The

1 Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what
2 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
3 request of Class Counsel or Defense Counsel.

4 (g) Defective Submissions. If a Settlement Class Member's Request for
5 Exclusion or objection is defective as to the requirements listed herein, that Settlement Class
6 Member will be given an opportunity to cure the defect(s). The Settlement Administrator will
7 mail the Settlement Class Member a cure letter within three (3) business days of receiving the
8 defective submission to advise the Settlement Class Member that his or her submission is
9 defective and that the defect must be cured to render the Request for Exclusion or objection
10 valid. The Settlement Class Member will have the later of (i) the Notice Response Deadline or
11 (ii) 15 calendar days from the date of the cure letter to postmark or fax a revised Request for
12 Exclusion or objection. If the revised Request for Exclusion or objection is not postmarked or
13 received by fax within that period, it will be deemed untimely.

14 71. Declaration of Due Diligence. The Settlement Administrator shall provide
15 counsel for the Parties, at least twenty-five (25) calendar days prior to the final approval
16 hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the
17 Notice.

18 72. Funding of the Settlement Amount. Defendant shall make a one-time deposit
19 into the QSF of the Gross Settlement Amount within fifteen (15) calendar days after the
20 Effective Date. Defendant separately shall pay into the QSF its share of employer payroll taxes
21 as calculated and directed by the Settlement Administrator, which shall be distributed and
22 reported by the Settlement Administrator. Once Defendant has complied with its obligation set
23 forth in this paragraph, it shall be deemed to have satisfied all of the terms and conditions of this
24 Agreement, shall be entitled to all the protections afforded it under the Agreement, and shall
25 have no further obligations under the Agreement. The Settlement Administrator (and not
26 Defendant) shall issue the applicable W-2s and IRS Form 1099 reflecting all payments to the
27 Class Members and PAGA Members.

28 73. Distribution of Funds. No later than ten (10) calendar days after the deposit of

1 the Gross Settlement Amount into the QSF, the Settlement Administrator will mail the
2 Individual Settlement Payments to the Participating Class Members, the payment to Class
3 Counsel for the Attorneys' Fees and Costs Award, any Service Payment to the Class
4 Representatives, the payment to the LWDA for PAGA penalties, and will pay itself the
5 Settlement Administration Costs. To comply with California Rules of Court, rule 3.771,
6 settlement checks shall include the following language on the check: "A Court has approved
7 settlement of the class action and PAGA representative action and entered judgment for claims
8 asserted in *Barboza, et al. v. Rudolph Foods Company, Inc.*, case number San Bernardino
9 Superior Court Case No. CIVSB2129090."

10 74. Deadline for Cashing Settlement Checks. Participating Class Members and
11 PAGA Members shall have 180 calendar days after mailing by the Settlement Administrator to
12 cash their settlement checks. If any Participating Class Member's or PAGA Member's check is
13 not cashed within that period, the check will be void and a stop-payment will be issued, and the
14 Settlement Administrator shall issue the unclaimed funds to the California State Controller's
15 Office in the name of the Class Member or PAGA Member, or as otherwise directed by the
16 Court. The release will be binding upon all Participating Class Members and PAGA Members
17 who do not cash their checks within the 180-day period. In the event that any settlement check
18 is returned to the Settlement Administrator within 180 days of mailing, the Settlement
19 Administrator will, within five (5) business days of receipt of the returned settlement check,
20 perform a skip trace to locate the individual, and notify Defense Counsel and Class Counsel of
21 the results. If a new address is located by these means, the Administrator will have ten (10)
22 business days to re-issue the check. Neither Defendant, Defense Counsel, Class Counsel,
23 Plaintiffs, nor the Settlement Administrator will have any liability for lost or stolen settlement
24 checks, forged signatures on settlement checks, or unauthorized negotiation of settlement
25 checks. Without limiting the foregoing, in the event a Participating Class Member or PAGA
26 Member notifies the Settlement Administrator that he or she believes that a settlement check has
27 been lost or stolen, the Settlement Administrator shall immediately stop payment on such check.
28 If the check in question has not been negotiated prior to the stop payment order, the Settlement

1 Administrator will issue a replacement check.

2 75. No person shall have any claim against Defendant (or their designees),
3 Defendant's Counsel, Plaintiffs, Class Counsel, or the Settlement Administrator based on
4 mailings, distributions, payments or reports made in accordance with or pursuant to this
5 Agreement. This provision does not, however, prevent a Party from seeking enforcement of
6 this Agreement.

7 76. Without prejudice to any other remedies, the Settlement Administrator shall
8 agree to be responsible for any breach of its obligations (whether committed by the Settlement
9 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless
10 from and against all liabilities, claims, causes of action, costs and expenses (including legal fees
11 and expenses) arising out of any breach committed by the Settlement Administrator or its
12 agents.

13 **H. Duties of the Parties Prior to the Court's Approval**

14 77. Upon the filing of the Consolidated Complaint, counsel in the Potter Action may
15 file a dismissal without prejudice of those actions in their respective jurisdictions, thereby
16 leaving only the Consolidated Complaint pending in San Bernardino Superior Court. Plaintiffs
17 will thereafter move the Court for Preliminary Approval of this Settlement and entry of the
18 Preliminary Approval Order accomplishing the following:

19 (a) Scheduling the Final Approval Hearing on the issue of whether this
20 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
21 and a hearing on fees, costs and the Service Payments;

22 (b) Approving as to form and content the proposed Notice (attached hereto as
23 Exhibit A);

24 (c) Directing the mailing of the Notice by first class mail to the Settlement
25 Class Members;

26 (d) Preliminarily approving this Settlement; and

27 (e) Preliminarily certifying the class for purposes of this Settlement.

28 78. Reallocation of Settlement Proceeds. In the event the Court fails, on its first

1 hearing, to approve this Agreement because the amount of the PAGA Penalties is not adequate,
2 then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within
3 this Agreement, in order to try to achieve Final Approval of the Agreement upon any
4 subsequent Court hearings.

5 **I. Duties of the Parties Following Court's Final Approval**

6 79. In connection with the Final Approval Hearing provided for in this Settlement
7 Agreement, Class Counsel shall submit a proposed Final Approval Order:

8 (a) Approving the Settlement, adjudging the terms thereof to be fair,
9 reasonable and adequate, and directing consummation of its terms and provisions;

10 (b) Approving Class Counsel's application for an award of attorneys' fees
11 and reimbursement of litigation costs and expenses, the Service Payment to the Class
12 Representatives, and the payment to the Settlement Administrator for costs of administering the
13 settlement; and

14 (c) Entering judgment approving settlement, thereby permanently barring all
15 Participating Class Members from prosecuting any Settled Class Claims against any of the
16 Released Parties and permanently barring all PAGA Members and the LWDA from prosecuting
17 any Settled PAGA Claims against any of the Released Parties.

18 80. Final Judgment. The Settlement Administrator shall give the Participating Class
19 Members and PAGA Members notice of the entry of Final Judgment on a postcard or letter that
20 will be included with the Individual Settlement Payments. If any amended judgment is required
21 under Code of Civil Procedure section 384, the Parties will work together in good faith to
22 jointly submit and a proposed amended judgment.

23 **J. Other Terms**

24 81. Waiver. The waiver by one Party of any breach of this Agreement by another
25 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

26 82. Full and Complete Defense. This Agreement may be pleaded by any Released
27 Party as a full and complete defense to, and may be used as the basis for an injunction against,
28 any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted,

1 asserting any Released Claim.

2 83. Parties' Authority. The signatories hereto represent that they are fully authorized
3 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
4 hereof.

5 84. No Publicity. Communications regarding this Settlement prior to the
6 Preliminary Approval Date shall be limited to Court-Approved Notices in the Action. After the
7 Preliminary Approval Date, Class Counsel and Class Representatives agree that they will not
8 publicize this Settlement on their website, social media, blogs, micro-blog, vlogs or any other
9 media, including, reporting to Jury Verdicts or any other reporting services and agree that any
10 breach of this paragraph is a material breach of the Settlement Agreement. Nothing herein shall
11 be construed to prevent Class Counsel from the public filing of motions or other case materials
12 in the Action related to seeking and obtaining Court approval of this Settlement and the related
13 awards of attorneys' fees and costs, or to communications with Settlement Class Members or
14 their representatives about this Settlement, including through the posting of Court-filed
15 documents on Class Counsel's websites for access solely by the Settlement Class Members, or
16 to prevent the Parties or their representatives from communicating with financial or legal
17 advisors regarding the Settlement. In response to any media inquiry, Class Counsel may state
18 only that the Action has been settled on terms mutually agreeable to the Parties.

19 85. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
20 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
21 such documents and to take such other action as may reasonably be necessary to implement the
22 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
23 best efforts, including all efforts contemplated by this Settlement Agreement and any other
24 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
25 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
26 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
27 Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary
28 and final approval of the settlement, and the final entry of judgment. Class Counsel shall

1 provide Defendant's Counsel with copies of the Preliminary Approval Motion and Final
2 Approval Motion for review at least five days prior to the filing deadline.

3 86. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
4 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
5 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
6 cause of action or rights released and discharged by this Settlement Agreement.

7 87. No Admission. Defendant denies any and all liability to Plaintiffs and/or any
8 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
9 that might have been asserted in this Action. Nothing in this Settlement Agreement is intended
10 or shall be construed as an admission of liability, fault or wrongdoing by Defendant. Nothing in
11 this Settlement Agreement shall operate or be construed as an admission of any liability or that
12 class certification is appropriate in any context other than this Settlement Agreement.
13 Nonetheless, Defendant wishes to settle and compromise the matters at issue in the Complaint
14 to avoid further substantial expense and the inconvenience and distraction of protracted and
15 burdensome litigation. Defendant also has taken into account the uncertainty and risks inherent
16 in litigation, and without conceding any infirmity in the defenses that they have asserted or
17 could assert against Plaintiffs, have determined that it is desirable and beneficial that Plaintiffs'
18 claims be settled in the manner and upon the terms and conditions set forth in this Agreement.

19 88. Inadmissibility of Agreement. Whether or not the Court issues the Final
20 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,
21 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing
22 on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has
23 entered into this Settlement Agreement with the intention of avoiding further disputes and
24 litigation with the attendant inconvenience and expenses. This Settlement Agreement is a
25 settlement document, and it, along with all related documents such as the notices, and motions
26 for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
27 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an
28 action or proceeding to approve the settlement, and/or interpret or enforce this Settlement

1 Agreement and corresponding judgment. The stipulation for class certification as part of this
2 Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not
3 approved, the stipulation will be of no force or effect.

4 89. Notices. Unless otherwise specifically provided herein, all notices, demands or
5 other communications given hereunder shall be in writing and shall be deemed to have been
6 duly given as of the third business day after mailing by United States registered or certified
7 mail, return receipt requested, addressed:

8 To the Settlement Class Members and PAGA Members:

9 Brian J. Mankin, Esq. [CSB No. 216228]
10 *brian@lmlfirm.com*
11 Kristina Bui Carlson, Esq. [CSB No. 294924]
12 *kristina@lmlfirm.com*
13 LAUBY, MANKIN & LAUBY LLP
14 5198 Arlington Avenue, PMB 513
15 Riverside, CA 92504
16 Tel: (951) 320-1444 | Fax: (951) 320-1445

17 Nazo Koulloukian, SBN 263809
18 *nazo@koullaw.com*
19 KOUL LAW FIRM
20 3435 Wilshire Blvd., Suite 1710
21 Los Angeles, CA 90010
22 Tel: (213) 761-5484 | Fax: (818) 561-3938

23 To Defendant:

24 Pavneet Singh Mac, Esq.
25 *pmac@nossaman.com*
26 NOSSAMAN LLP
27 18101 Von Karman Avenue, #1800
28 Irvine, CA 92612
Tel: (949) 833-7800 | Fax: (949) 833-7878

90. Construction. The Parties hereto agree that the terms and conditions of this
Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the
Parties and that this Settlement Agreement shall not be construed in favor of or against any
Party by reason of the extent to which any Party or his or its counsel participated in the drafting

1 of this Settlement Agreement. Plaintiffs and Defendant expressly waive the common-law and
2 statutory rule of construction that ambiguities should be construed against the drafter of an
3 agreement and further agree, covenant, and represent that the language in all parts of this
4 Agreement shall be in all cases construed as a whole, according to its fair meaning.

5 91. Captions and Interpretations. Paragraph titles or captions contained herein are
6 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
7 describe the scope of this Settlement Agreement or any provision hereof. Each term of this
8 Settlement Agreement is contractual and not merely a recital other than paragraphs 45-51.

9 92. Modification. This Settlement Agreement may not be changed, altered, or
10 modified, except in writing and signed by the Parties hereto, and approved by the Court. This
11 Settlement Agreement may not be discharged except by performance in accordance with its
12 terms or by a writing signed by all of the Parties hereto.

13 93. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
14 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
15 provide written notice to the other Party and allow an opportunity to cure the alleged
16 deficiencies, and Plaintiffs and Defendant agree to seek the help of the mediator identified in
17 this Agreement to resolve any dispute they are unable to resolve informally. During this period,
18 the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any
19 legal action or other proceeding instituted by any person or entity other than Plaintiffs or
20 Defendant.

21 94. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
22 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure
23 Section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
24 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents and obligations
25 of this Agreement.

26 95. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b),
27 this Agreement is intended by the Parties to be, and shall be, enforceable, binding and
28 admissible in a court of law.

1 96. Choice of Law. This Settlement Agreement shall be governed by and construed,
2 enforced and administered in accordance with the laws of the State of California.

3 97. Integration Clause. This Settlement Agreement contains the entire agreement
4 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
5 or contemporaneous agreements, understandings, representations, and statements, whether oral
6 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
7 hereunder may be waived except in writing.

8 98. Binding On Assigns. This Settlement Agreement shall be binding upon and inure
9 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
10 successors and assigns.

11 99. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
12 because the members of the Settlement Class are numerous, it is impossible or impractical to
13 have each Class Member execute this Settlement Agreement. The Notice will advise all
14 Settlement Class Members of the binding nature of the releases provided herein and such shall
15 have the same force and effect as if this Settlement Agreement were executed by each
16 Settlement Class Member.

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

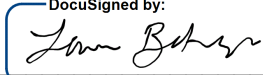
21 101. No Collateral Attack. This Settlement Agreement shall not be subject to
22 collateral attack by any Settlement Class Member, PAGA Member, or any recipient of the Class
23 Notice after the Effective Date. Such prohibited collateral attacks shall include but not be
24 limited to claims that the Settlement Class Member or PAGA Member failed for any reason to
25 receive timely notice of the procedure for disputing the calculation of her or his Individual
26 Settlement Payment and/or individual PAGA payment.

27 102. Counterparts. This Settlement Agreement may be executed in counterparts, and
28 when each Party has signed and delivered at least one such counterpart, each counterpart shall

be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties.

Dated: March 7, 2023

PLAINTIFF AND CLASS REPRESENTATIVE:

DocuSigned by:

38AA45DBEE6D4AE...
Laura Lizbeth Barboza Gomez

Dated: March __, 2023

PLAINTIFF AND CLASS REPRESENTATIVE:

Damon Potter

Dated: March __, 2023

DEFENDANT:
RUDOLPH FOODS COMPANY, INC.

By: Michelle Gardner
Title: Vice President, Human Resources & Safety

Dated: March __, 2023

DEFENDANT'S COUNSEL:
NOSSAMAN LLP

Pavneet Singh Mac, Esq.
Attorneys for Defendant

Dated: March 7, 2023

CLASS COUNSEL:
LAUBY MANKIN LAUBY LLP


Brian Mankin, Esq.
Attorneys for Plaintiffs

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Dated: March ___, 2023

PLAINTIFF AND CLASS REPRESENTATIVE:

Laura Lizbeth Barboza Gomez

Dated: March 7, 2023

PLAINTIFF AND CLASS REPRESENTATIVE:

Damon Potter
Damon Potter (Mar 7, 2023 17:11 PST)

Damon Potter

Dated: March ___, 2023

DEFENDANT:
RUDOLPH FOODS COMPANY, INC.

By: Michelle Gardner
Title: Vice President, Human Resources & Safety

Dated: March ___, 2023

DEFENDANT'S COUNSEL:
NOSSAMAN LLP

Pavneet Singh Mac, Esq.
Attorneys for Defendant

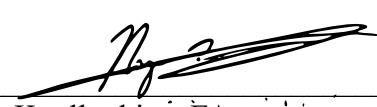
Dated: March ___, 2023

CLASS COUNSEL:
LAUBY MANKIN LAUBY LLP

Brian Mankin, Esq.
Attorneys for Plaintiffs

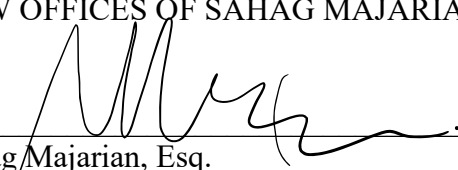
1
2 Dated: March 7, 2023

CLASS COUNSEL:
THE KOUL LAW FIRM

3
4 
5 Nazo Koulloukian, Esq.
6 Attorneys for Plaintiffs

7 Dated: March 7, 2023

CLASS COUNSEL:
LAW OFFICES OF SAHAG MAJARIAN II

8
9 
10 Sahag Majarian, Esq.
11 Attorneys for Plaintiffs

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Dated: March __, 2023

PLAINTIFF AND CLASS REPRESENTATIVE:

Laura Lizbeth Barboza Gomez

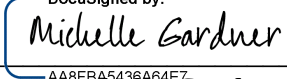
Dated: March __, 2023

PLAINTIFF AND CLASS REPRESENTATIVE:

Damon Potter

Dated: March 8, 2023

DEFENDANT:
RUDOLPH FOODS COMPANY, INC.

DocuSigned by:

AA9EBA5436A64E7
By: Michelle Gardner

Title: Vice President, Human Resources & Safety

Dated: March 8, 2023

DEFENDANT'S COUNSEL:
NOSSAMAN LLP



Pavneet Singh Mac, Esq.
Attorneys for Defendant

Dated: March __, 2023

CLASS COUNSEL:
LAUBY MANKIN LAUBY LLP

Brian Mankin, Esq.
Attorneys for Plaintiffs

EXHIBIT “B”

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00456 Potter v Personnel
Staffing (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Damon Potter</u>									
<u>14000-00456 Potter v Personnel Staffing</u>									
06-14-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	75.00	0.00	1.00	75.00
LWDA Order Number: ORD-000113780 to submit LWDA letter Case number LWDA-CM-834845-21									
06-14-2021	Approved		Non-Billable	E101 Copying	Aguilera, Sophia J.	0.06	0.00	260.00	15.60
260 copies @ \$0.06 for Letters to Employer									
06-14-2021	Approved		Non-Billable	E108 Postage	Aguilera, Sophia J.	24.81	0.00	1.00	24.81
Postage for the month of June 2021									
07-02-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Sophia J.	1,450.00	0.00	1.00	1,450.00
RVSC Submission ID #10792089 to file Complaint									
07-09-2021	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	119.95	0.00	1.00	119.95
Bosco Inv 5860755 Serve: Rudolph Foods Company, Inc., an Ohio Corporation Summons; Complaint; Civil Case Cover Sheet; Certificate of Counsel; ADR Court: Riverside County Superior Court - Central District									
07-30-2021	Approved		Non-Billable	Attorney Service	Aguilera, Sophia J.	97.45	0.00	1.00	97.45
Bosco Inv 5860735 Serve: Personnel Staffing Solutions Group, Inc., a Delaware Corporation Summons; Complaint; Civil Case Cover Sheet; Certificate of Counsel; ADR Court: Riverside County Superior Court - Central District									
09-09-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Monica A	2.00	0.00	1.00	2.00
RVSC Submission ID #10912887 to File PLA CMS									
09-16-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Monica A	2.00	0.00	1.00	2.00
RVSC Submission ID #10920899 to file RVSC									
11-08-2021	Approved		Non-Billable	E112 Court fees	Aguilera, Monica A	2.00	0.00	1.00	2.00
RVSC Submission ID #10988312 to file Joint Stmt and Dec of PJC									
11-12-2021	Approved		Non-Billable	Attorney Service	Aguilera, Monica A	250.00	0.00	1.00	250.00
Bosco Inv 6278262 Conduct Locate on Jaime Adame. He used to be the president of Personnel Staffing Solutions Group, Inc. Completed on: 11/8/2021									
01-03-2022	Approved		Non-Billable	Attorney Service	Aguilera, Monica A	14.22	0.00	1.00	14.22
Budget Conferencing Inv 30786191 for 12-09-21 call									

All Expenses

Lauby, Mankin & Lauby LLP

Staff Member = All (Active Only)
Group By Staff Member Group
Client - Project = 14000-00456 Potter v Personnel
Staffing (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Damon Potter</u>									
<u>14000-00456 Potter v Personnel Staffing</u>									
03-15-2022	Approved		Non-Billable	Attorney Service	Grossi, Tracie L.	16.27	0.00	1.00	16.27
OneLegal Order #17838437 - file jt stmnt and KBC dec									
03-15-2022	Approved		Non-Billable	E125 Mediation fees	Grossi, Tracie L.	10,000.00	0.00	1.00	10,000.00
Inv #4450 for mediation fees for mediation w Steve Rottman on 10-20-22									
03-19-2022	Approved		Non-Billable	Attorney Service	Grossi, Tracie L.	20.47	0.00	1.00	20.47
Budget Conferencing Inv 30854278 for 3/9/22 conf call									
04-11-2022	Approved		Non-Billable	Attorney Service	Grossi, Tracie L.	900.00	0.00	1.00	900.00
Bosco Inv#6823307 Conduct locate/further investigation on Jaime Adame Completed on: 4/6/2022									
05-16-2022	Approved		Non-Billable	Attorney Service	Grossi, Tracie L.	100.00	0.00	1.00	100.00
Bosco Inv# 7047922 Continue locate/further investigation on Jaime Adame Spend no more than .75 hours Completed on: 5/13/2022									
07-08-2022	Approved		Non-Billable	Attorney Service		26.37	0.00	1.00	26.37
Budget Conferencing Inv#30913275 for 5/4/22 Conf Call									
07-13-2022	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	16.78	0.00	1.00	16.78
OneLegal Order #18543722 - file joint statement									
08-03-2022	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	16.78	0.00	1.00	16.78
OneLegal Order #18662075 - File Ntc of Change of Address									
08-31-2022	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	500.00	0.00	1.00	500.00
Bosco Inv #7526175 Continue locate on Jamie Adame. Court: Riverside County Superior Court - Central District Completed on: 08/31/2022									
09-13-2022	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	16.78	0.00	1.00	16.78
OneLegal Order #1890331 - file Declaration of KBC re OSC									
10-31-2022	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	46.43	0.00	1.00	46.43

All Expenses

Lauby, Mankin & Lauby LLP

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Expense Code = All
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From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Damon Potter</u>									
<u>14000-00456 Potter v Personnel Staffing</u>									
OneLegal Order #19194192, 19205274, 19208217 - file Declarations of BJM, KBC and client, Joint Statement, and Request for Dismissal and Proposed Order									
12-15-2022	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	16.78	0.00	1.00	16.78
OneLegal Order #1974489 - file Joint Statement									
01-13-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	16.78	0.00	1.00	16.78
OneLegal Order #19633676 - file Joint Statement									
01-31-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	30.69	0.00	1.00	30.69
TurboCourt - file Stip and Order re FAC									
02-03-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	9.95	0.00	1.00	9.95
TurboCourt Receipt for filing Consolidated Complaint in San Bernardino Superior Court									
02-08-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	17.24	0.00	1.00	17.24
OneLegal Order #19796354 - file Joint Statement, Request for Dismissal, (2) Declarations, and Proposed Order									
03-10-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	211.60	0.00	1.00	211.60
Bosco Inv #8517862 File and conform. -Motion -Declaration x5 -Proposed Order *advance fee* Court: San Bernardino County Superior Court - Central District Completed on: 3/9/2023									
03-20-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	9.95	0.00	1.00	9.95
TurboCourt Receipt #7795079 - file POS on FAC									
04-17-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	72.00	0.00	1.00	72.00
Courtcall ID #11685524 for 4/18/23 MPA									
04-19-2023	Approved		Non-Billable	E112 Court fees Chiarito, Tracie	Chiarito, Tracie	3.00	0.00	1.00	3.00
Receipt for San Bernardino Superior Court for copy of signed order on PA									
06-19-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	61.95	0.00	1.00	61.95

All Expenses
Lauby, Mankin & Lauby LLP

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Group By Staff Member Group
Client - Project = 14000-00456 Potter v Personnel
Staffing (Active Only)
Activity Code = All
Expense Code = All
View = Original
Approval Status = All
Selected Expenses = All
From Earliest To Latest

Entered	Status	Approval	BillableType	Expense	Staff Member	Price	Mark Up %	Qty	Amount
<u>Damon Potter</u>									
<u>14000-00456 Potter v Personnel Staffing</u>									
Bosco Inv #9040028									
File and conform.									
-Stipulation to Amend and Continue; Proposed Order									
advance fees									
Court: San Bernardino County Superior Court - Central District									
Completed on: 6/16/2023									
08-01-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	300.00	0.00	1.00	300.00
Estimated cost to file Motion for Final Approval and supporting documents via Bosco									
08-16-2023	Approved		Non-Billable	Attorney Service	Chiarito, Tracie	114.00	0.00	1.00	114.00
Estimated cost for Courtcall for 8/23/23 MFA									
Project Total									14,576.85
Client Total									14,576.85
Grand Total									14,576.85

EXHIBIT “C”