

COHELAN KHOURY & SINGER

Isam C. Khoury (SBN 58759)

ikhoury@ckslaw.com

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian (SBN 146621)

sahagii@aol.com

18250 Ventura Blvd.

Tarzana, CA 91356

Telephone: (818) 609-0807/Facsimile: (818) 609-0892

Attorneys for Plaintiff Gabriela Chavez, on behalf of herself
and other similarly-situated employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

GABRIELA CHAVEZ, on behalf of herself
and other similarly-situated employees

Plaintiff,

v.

SCHEID VINEYARDS INC., a Delaware
Corporation; and DOES 1 Through 10,
inclusive,

Defendants.

Case No. 21CV002126

CLASS ACTION (COMPLEX)

**DECLARATION OF ISAM C. KHOURY IN
SUPPORT OF MOTION FOR AN ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: December 16, 2022

Time: 8:30 a.m.

Dept: 14

Judge: Hon. Carrie M. Panetta

Complaint filed: July 2, 2021

Trial date: Not set

1 I, Isam C. Khoury, declare as follows:

2 1. I am a Partner with the law firm of Cohelan Khoury & Singer, co-counsel of
3 record for Plaintiff and the Settlement Class. I submit this Declaration in Support of Plaintiff's
4 Motion for Order Granting Final Approval of Class Action Settlement. The following facts are
5 within my personal knowledge and if called to testify I could and would competently testify to
6 them.

7 2. I am a 1973 Hastings School of Law graduate and was admitted to the California
8 State Bar in 1974 and am admitted to practice in all state courts in California and in the all
9 federal courts in California, as well as the First Circuit Court of the State of Hawaii and the
10 United States Court of Appeals for Sixth Circuit.

11 3. In 1981, Timothy D. Cohelan and I formed Cohelan & Khoury, a Partnership of
12 Professional Law Corporations, in 1981 and within a few years began to focus on class actions.
13 Cohelan & Khoury became Cohelan Khoury & Singer in 2009. Our firm represents plaintiffs in
14 class and representative action litigation, including wage and hour, labor and employment,
15 antitrust, consumer protection, construction defect and other public interest class and
16 representative actions.

17 4. I, along with Partner Diana M. Khoury have been selected by our peers based on
18 ethics, experience and reputation as Super Lawyers in Civil Litigation by the Southern
19 California Super Lawyers Magazine for the years 2012 through the present. Michael D. Singer,
20 Managing Partner, was named to the Daily Journal 2012, 2013, and 2018 list of Top California
21 Labor and Employment Attorneys and selected to the Southern California Super Lawyers in
22 2010, 2012-2019. Mr. Singer was admitted as a fellow to the College of Labor and Employment
23 Attorneys in 2020. I am AV – Preeminent rated by Martindale-Hubbell, as are many attorneys
24 in our firm.

25 5. Cohelan Khoury & Singer has been certified by the State Bar of California to
26 provide the Mandatory Continuing Legal Education activity entitled "Litigating California Class
27 Actions" and has conducted MCLE certified seminars on this topic. Senior Partner, Timothy D.
28 Cohelan, is the author of Cohelan on California Class Actions (1997-2022, updated annually),

1 part of Thomson Reuters Expert Series updated annually. Michael D. Singer is a contributing
2 author on the CEB publication California Wage and Hour Law: Compliance and Litigation
3 (2010-2022 updated annually), in which he wrote the opening chapter overview on California
4 Wage and Hour laws, including the public policy underpinnings for those laws, and the Private
5 Attorneys General Act (PAGA) Claim chapter. He is also a contributing author to the CEB
6 Practitioner (2020), including guidelines for oral argument and forms for PAGA litigation. Mr.
7 Singer has served as a columnist for the California State Bar, Litigation Section on wage and
8 hour litigation and has contributed articles on wage and hour and class action issues through the
9 years to numerous California publications. Prior to COVID, he typically lectured several times
10 per year for continuing education courses on wage and hour and class action issues at events in
11 San Diego, Orange County, Los Angeles, and San Francisco. For over twelve years, Mr. Singer
12 has served as wage and hour amicus co-chair and liaison for the California Employment
13 Lawyers Association, drafting, reviewing, and coordinating amicus filings on wage and hour
14 issues in the California Supreme Court and Courts of Appeal. He has been engaged in the
15 practice of labor and employment law since 2000, handling well over 300 wage and hour class
16 and PAGA actions and several individual labor cases. He has litigated several types of
17 employment actions, including complex ERISA employee welfare benefit plan cases, as well as
18 wage and hour class actions before Federal and State Courts in California. In 2014, Mr. Singer,
19 along with Partner J. Jason Hill, tried a wage and hour class action involving claims for illegally
20 deducted wages and unreimbursed expenses. *Dilts v Penske Logistics LLC, Inc.* Mr. Singer
21 successfully appealed the trial court ruling in *Dilts* finding state laws preempted by the FAAAA
22 for truck drivers.

23 6. Mr. Singer has participated in over 50 appellate cases and argued writs and
24 appeals before several California District Courts of Appeal, arguing for plaintiffs on rehearing
25 in *Brinker International Inc. v. Superior Court* before the Fourth District Court of Appeal, as
26 well as federal appeals in the Second, Third, and Ninth Circuit Courts of Appeals. In addition,
27 Mr. Singer has drafted numerous appellate briefs as the appellant, respondent, or amicus curiae
28 in employment class and individual actions. As co-Class Counsel in *Brinker Restaurant Corp. v.*

1 *Superior Court* [formerly reported at (2008)165 Cal.App.4th 25], Mr. Singer argued before the
2 Fourth District Court of Appeal in May 2008 on transfer from the California Supreme Court,
3 and co-authored the successful Petition for Review. My firm has successfully tried class cases,
4 obtained appellate reversals of class certification denials (*Hicks v. Kaufman and Broad*, (2001)
5 89 Cal.App.4th 908), and certified multiple wage and hour classes.

6 7. As a part of our overall firm philosophy lawyers perform community service and
7 pro bono work. Firm volunteer work includes service through the Legal Aid at Work, San
8 Diego Volunteer Lawyer Program, the San Diego County Bar Foundation and Consumer
9 Attorneys of San Diego. During law school, I interned for the ACLU and Equal Rights
10 Assistance assisting on impact litigation class action lawsuits. I am a past recipient of the Wiley
11 W. Manuel Award for Pro Bono Service. Mr. Singer has served on the Legal Aid at Work
12 Board of Directors since 2011. Mr. Cohelan served as the Chair of the San Diego Volunteer
13 Lawyers Program from 2015-2018, and currently sits on the Board as past Chair. He completed
14 24 years of volunteer judicial service as a Judge Pro Tem of the San Diego Superior Court.
15 Since admission to the California Bar, Partner Diana M. Khoury has been a member of the San
16 Diego County Bar Association, Consumer Attorneys of San Diego, Consumer Attorneys of
17 California, and American Association for Justice serving and chairing various committees
18 through the years for these organizations. For six years from 2010 through 2015, Ms. Khoury
19 served on the Board of Directors for Consumer Attorneys of San Diego. Since 2013, Ms.
20 Khoury actively serves on the Board of Directors for the San Diego County Bar Foundation, the
21 501(c)(3) charitable arm of the San Diego County Bar Association providing access to justice to
22 the underserved and impoverished in the San Diego County region. Our firm's recent pro bono
23 victories include a settlement which prohibits the City of San Diego from targeting homeless
24 people for illegal lodging tickets under Penal Code Section 467(j). (*Spencer v. City of San*
25 *Diego*, USDC Case No 04CV-2314 BEN (WMC).) The *Spencer* settlement had the effect of
26 increasing the number of available shelter beds in San Diego.

27 8. Cohelan Khoury & Singer has been certified Class Counsel in the following
28 contested proceedings: *Aguilar v. Atlantic Richfield, et al.*, San Diego County Superior Court

1 Case No. 00700810; *Andino v. Kaiser Foundation Hospitals*, Alameda County Superior Court
2 Case No. RG11580548; *Arellano, et al. v. Container Connection of Southern California, Inc.*,
3 Los Angeles County Superior Court Case No. BC500675; *BANK OF AMERICA WAGE AND*
4 *HOURLY EMPLOYMENT PRACTICES LITIGATION*, United States District Court, District of
5 Kansas MDL Case No. 2138 (FLSA Condition Certification); *Czuchaj v. Conair Corporation*,
6 United States District Court, Southern District of California Case No. 13CV1901; *Dilts, et al. v.*
7 *Penske Logistics, L.L.C., et al.*, United States District Court, Southern District of California
8 Case No. 08CV0318; *Englert, et al. v. AT&T Wireless Services, Inc., et al.*, Circuit Court of the
9 Second Circuit, State of Hawaii Case No. 02-1-0074; *Evans v. Washington Mutual Bank*,
10 Orange County Superior Court Case No. 02CC15415; *Filion v. Ethan Allen Retail Inc.*, United
11 States District Court, Southern District of California Case No. 05CV2340; *Gerard v. Les*
12 *Schwab Tire Centers of California, Inc.*, Sacramento County Superior Court Case No. 2007-
13 300000003; *Grana, et al. v. PICO Enterprises, Inc. dba Phyle Inventory Control Specialist and*
14 *PICS L.A.S.C.* Case No. BC472891; *Gutierrez v. Save Mart Supermarkets San Mateo Superior*
15 *Case No. CIV530955; Wilcox v Albertsons*, San Diego County Superior Court Case No.
16 GIC833922; *Gonzalez, et al. v. Freedom Communications, Inc. d/b/a The Orange County*
17 *Register*, Orange County Superior Court Case No. 03CC08756; *Graham, et al. v. Overland*
18 *Solutions, Inc.*, United States District Court, Southern District of California Case No.
19 10CV0672 (FLSA Conditional Certification); *Hicks v. Kaufman and Broad Home Corp.*, Los
20 Angeles County Superior Court Case No. B198414; *Hohnbaum, et al. v. Brinker Restaurant*
21 *Corporation, et al.*, San Diego County Superior Court Case No. GIC834348; *KEMP, et al. v.*
22 *CSEA, et al.*, Circuit Court of the First Circuit, State of Hawaii Case No. 98-3815-08; *LIBERTY*
23 *MUTUAL OVERTIME CASES*, Los Angeles County Superior Court Case No. JCCP 4234;
24 *Mitchell, et al. v. Acosta, Inc., dba Acosta Sales and Marketing Company*, United States District
25 Court, Central District of California Case No.11CV07196 (FLSA Conditional Certification);
26 *Santana v. Rady Children's Hospital-San Diego*, San Diego County Superior Court Case No.
27 37-2014-00022411; *Schaffer v. Rady Children's Hospital-San Diego*, San Diego County
28 Superior Court Case No. 337-2015-00022978; *Schneider, et al. v. Catholic Healthcare West*,

San Francisco County Superior Court Case No. CGC-10-506243; *Salucci v. Amada Senior Care, Inc.*, Orange County Superior Court Case No. 37-2015-00778081; *Smith v. California Pizza Kitchen*, San Diego County Superior Court Case No. 37-2008-00083992; STEROID HORMONE PRODUCT CASES, Los Angeles County Superior Court Case No. JCCP 4363; *Stevenson Aibangbee v. Victoria Apartments, et al.*, Los Angeles County Superior Court Case No. BC299498; *Swift v. Liebert Corp.*, Orange County Superior Court Case No. 00CC04588; *Sylvia, et al. v. Wells Fargo Home Mortgage, Inc.*, Orange County Superior Court Case No. 03CC05747; *Vaquero v. Ashley Furniture Industries, Inc., et al.*, United States District Court, Central District of California Case No. 12CV8590; *Vaquero v. Stoneledge Furniture LLC*, Los Angeles County Superior Court Case No. BC522676; *Vazquez v. Kraft Heinz Foods Company*, United States District Court, Southern District of California Case No. 16-CV-02749; *Watson v. Raytheon Company*, United States District Court, Southern District of California Case No. 10CV0634; and *Weigle v. FedEx Ground Package System, Inc.*, United States District Court, Southern District of California Case No. 06CV1330, among others, as well as being appointed Class Counsel in connection with well over 200 class action settlements.

9. Cohelan Khoury & Singer has actively commenced, prosecuted and concluded numerous state and federal class and representative actions. Since 2016, Cohelan Khoury & Singer has played a central role in the resolution of over 200 such cases, including the following, which have received court approval: (a) *Arellano, et al. v. Container Connection of Southern California, Inc.*, Los Angeles County Superior Court, Case No. BC500675, Hon. Anne I. Jones; (b) *Castro v. Home Depot U.S.A., Inc.*, Los Angeles County Superior Court, Case No. BC577885, Hon. Elihu M. Berle; (c) *Czuchaj v. Conair Corporation*, United States District Court, Southern District of California, Case No. 13-CV-1901 BEN, Hon. Roger T. Benitez; (d) *Gardiner v. TSYS*, United States District Court, Central District of California, Case No. 18-cv-00415, Hon. David O. Carter; (e) *Grana v. PICO Enterprises, Inc.*, Los Angeles County Superior Court, Case No. BC472891, Hon. Stephanie M. Bowick; (f) *Gutierrez v. Save Mart Supermarkets*, San Mateo County Superior Court, Case No. CIV530955, Hon. Marie S. Weiner; (g) *Hernandez v. Workforce Enterprises WFE, Inc.*, Los Angeles County Superior

1 Court Case No. BC590913, Hon. Elihu M. Berle; (h) *Hicks v. Poway Academy of Hair Design,*
2 *Inc.*, San Diego County Superior Court, Case No. 2014-00026517, Hon. Ronald L. Styn; (i)
3 *Hubbard v. Caliber Home Loans, Inc.*, Orange County Superior Court, Case No. 2018-
4 01017838; (j) *Klein v. Loomis Armored US, LLC*, San Bernardino County Superior Court, Case
5 No. CIVDS1704547, Hon. David Cohn; (k) *Laureano v. The Art of Shaving*, Los Angeles
6 County Superior Court, Case No. BC550093, Hon. Amy D. Hogue; (l) *Lopez, et al. v.*
7 *Management & Training Corporation, et al.*, United States District Court, Southern District of
8 California, Case No. 17-CV-010624 JM, Hon. Jeffrey T. Miller; (m) *Magdaleno v. Shelly*
9 *Automotive, LLC*, Orange County Superior Court Case No. 2013-0043958, Hon. Kim. G.
10 Dunning; (n) *McGrath, et al. v. Wyndham Resort Development Corporation, et al.*, United
11 States District Court, Southern District of California, Case. No. 15-CV-1631 JM, Hon. Jeffrey
12 T. Miller; (o) *Mena v. Wolfgang Puck Catering*, Los Angeles County Superior Court Case No.
13 BC582743, Hon. John Shepard Wiley, Jr.; (p) *Morales v. The Los Angeles Country Club*, Los
14 Angeles County Superior Court, Case No. BC566493, Hon. William F. Highberger; (q) *Nijmeh*
15 *v. Bon Appetit Management Company, Inc.*, Santa Clara County Superior Court, Case No.
16 16CV294127, Hon. Thomas E. Kuhnle; (r) *Plascencia v. Aramark Services, Inc.*, Santa Clara
17 County Superior Court, Case No. 2015-1-CV-288310, Hon. Brian C. Walsh; (s) *Plimpton v.*
18 *Gordon Trucking, Inc.*, San Bernardino County Superior Court, Case No. CIV-DS-1511918,
19 Hon. Donald Alvarez; (t) *Raya v. Amazon*, USDC, Northern District of California, Case No. 15-
20 CV-02005 MMC, Hon. Maxine M. Chesney; (u) *Rivas v. ESA Management*, USDC, Central
21 District of California, Case No. 14-CV-5767, Hon. Dale S. Fischer; (v) *Rodriguez v Healthcare*
22 *Partner Medical Group, Inc.*, Los Angeles County Superior Court, Case No. BC541313, Hon.
23 Kenneth Freeman; (w) *Ryan v. Dignity Health*, Sacramento County Superior Court Case No.
24 2013-00147371, Honorable Alan G. Perkins; (x) *Santana v. Rady Children's Hospital-San*
25 *Diego*, San Diego County Superior Court Case No. 37-2014-00022411, Hon. Joel R. Wohlfeil;
26 (y) *Schaffer v. Rady Children's Hospital-San Diego*, San Diego County Superior Court Case
27 No. 337-2015-00022978; Hon. Joel R. Wohlfeil; (z) *Schneider v. Catholic Healthcare West*,
28 San Francisco County Superior Court, Case No. CGC-10-506243, Hon. Angela Bradstreet; (aa)

1 *Schwartz v Bank of the West*, San Francisco County Superior Court, Case No. CGC-14-538955,
2 Hon. Harold E. Kahn; (bb) *Syed v. M.I. Swaco*, USDC, Eastern District of California, Case No.
3 12-CV-01718 DAD, Hon. Dale A. Drozd; (cc) *Vaquero, et al. v. Stoneledge Furniture, LLC*,
4 Los Angeles County Superior Court Case No. BC522676, Hon. Elihu M. Berle; (dd) *Vazquez v.*
5 *Kraft Heinz Foods Company*, USDC, Southern District of California Case No. 16-CV-02749,
6 Hon. William Q. Hayes; (ee) *Walsh v. Cedars-Sinai Medical Center*, Los Angeles County
7 Superior Court Case No. BC487290, Hon. William F. Highberger; among others.

8 10. Scheid Vineyards Inc., established in 1972, operates thousands of acres of
9 vineyards in Monterey County and produces wines sold nationwide.

10 11. Plaintiff Gabriela Chavez (“Plaintiff”) was employed by Scheid as a non-exempt
11 field worker, primarily picking grapes, from approximately August 2015 through February
12 2020.

13 12. Plaintiff Gabriela Chavez (“Plaintiff”) seeks preliminary approval of a
14 \$1,250,000 non-reversionary wage and hour Class and Private Attorney Generals’ Act (PAGA)
15 settlement for all current and former, hourly, nonexempt employees who worked for Defendant
16 Scheid Vineyards Inc. (“Scheid”), any time from July 2, 2017 through December 31, 2022
17 (“Class Period”) or any time from July 2, 2020 through December 31, 2022 (“PAGA Period”).
18 The proposed Settlement is memorialized in the Class Action and PAGA Settlement Agreement
19 and Class Notice, (“Agreement”), attached as Exhibit 1.

20 13. The putative class has an estimated 434 members—142 field workers and 292
21 non-field workers—who worked an estimated 48,970 workweeks during the Class Period and
22 19,068 pay periods during the PAGA Period.

23 14. On July 1, 2021, Plaintiff submitted a PAGA Notice to the LWDA in accordance
24 with the requirements of Labor Code section 2699.3(a). Plaintiff’s PAGA Notice alleged that
25 Defendant had violated California Labor Code sections 201-204, 218.5, 226, 226.2, 226.7, 510-
26 512, 860, 1174, 1194, 1197, 1197.1, 1198, and all applicable Industrial Welfare Commission
27 (“IWC”) Wage Orders.

28 ///

1 15. On July 2, 2021, Plaintiff commenced this Action by filing a Complaint in the
2 Superior Court of California, County of Monterey. The Complaint alleged putative class claims
3 against Defendant on behalf of Plaintiff and all hourly, non-exempt employees employed by
4 Defendant in the state of California from July 2, 2017 through the date of trial, for violations of
5 Labor Code sections 201-204, 218.5, 226, 226.2, 226.7, 510-512, 860, 1174, 1194, 1194.2,
6 1197, 1197.1, 1198, all applicable IWC Wage Orders, and California Business and Professions
7 Code §§ 17200, *et seq.*

8 16. On September 7, 2021, Plaintiff filed a First Amended Complaint, which added a
9 cause of action under the PAGA on behalf of all hourly, non-exempt employees employed by
10 Defendant in the state of California from July 2, 2020 through the date of trial. The First
11 Amended Complaint is the operative Complaint in the Action. Plaintiff also sought damages
12 and prejudgment interest for the class and civil penalties for the PAGA group.

13 17. On October 25, 2021, Plaintiff served requests for production, requests for
14 admission, and interrogatories to Scheid, along with a notice of deposition of Scheid's persons
15 most qualified.

16 18. In November 2021, the parties agreed to mediate and to informally exchange
17 data and documents.

18 19. Plaintiff alleged Class Members were not provided meal and rest periods or
19 premium wages in lieu thereof. Plaintiff first contended meal periods were not recorded, but
20 Defendant provided meal period time records for ten percent of the Class, rebutting this claim.
21 Plaintiff then contended time records analyzed revealed missed, late, or short meal periods for
22 both field and non-field Class Members. Further, Plaintiff alleged, and policy and pay records
23 revealed, Defendant had no policy to provide meal period premium wages to Class Members for
24 meal period violations. Plaintiff further alleged that field Class Members were required to walk
25 to a break area within the 30-minute timeframe allotted for meal periods, causing meal periods
26 to be short. Defendant rebutted this, contending Class Members took their meal breaks at or
27 near the trailer that Defendant parked near the designated work area and provided photographic
28 evidence showing this. Defendant also provided a written meal period policy providing for meal

1 breaks of one half hour and declarations of Class Members contending they were informed of
2 their right to take meal periods and did not miss them.

3 20. Plaintiff further alleged 10-minute rest periods were not always authorized and
4 permitted. Further, Plaintiff alleged, and policy and pay records revealed, Defendant had no
5 policy to provide rest period premium wages to Class Members for rest period violations.
6 Plaintiff also alleged that because rest periods were separately compensated, first and second
7 rest periods were not counted toward hours worked and thus third rest periods were not
8 provided after 10 hours of work. Defendant countered that its collective bargaining agreement
9 provided for 15-minute rest breaks and offered Class Member declarations stating that they
10 were advised of their right to rest breaks at orientation, knew when to take them, and
11 consistently took all rest breaks to which they were entitled.

12 21. Plaintiff further alleged that field Class Members had to walk for five minutes
13 across Scheid's property before roll call, but were not paid for this time. Defendant contended
14 that field Class Members parked very near to their roll call area, providing picture evidence.

15 22. Based on Defendant's alleged failure to provide minimum, overtime, meal period
16 premium, and rest period premium wages, Plaintiff alleged Defendant failed to provide Class
17 Members accurate wage statements and timely and complete final wages. Plaintiff further
18 contended that wage statements directly violated Labor Code section 226 by listing the
19 employer name as Scheid Vineyard Inc. rather than Scheid Vineyards Inc. Defendant countered
20 that it need not provide the entity name listed with the Secretary of State and that such a minor
21 deviation would not violate the Labor Code. *See, e.g. Noori v. Countrywide Payroll & HR*
22 *Solutions, Inc.* (2019) 43 Cal.App.5th 957, 964-965; *Elliot v. Spherion Pacific Work, LLC* (C.D.
23 Cal. 2008) 572 F.Supp.2d 1169, 1179.

24 23. The Parties agreed to mediate with Gig Kyriacou Esq., a respected mediator of
25 wage and hour class actions. For mediation, Scheid produced: Plaintiff's personnel file,
26 including her wage statements; Plaintiff's time records; a ten percent sample of time records for
27 randomly selected field and non-field workers; and information about the class, including the
28 number of each type of employee (field worker and non-field worker), the number of

workweeks and pay periods worked by each type, the number of separated employees, and the average hourly rates of pay. Plaintiffs' consultant analyzed the data and created a damages model. Before mediation, the Parties also exchanged mediation briefs. Attached to Defendant's mediation brief were photographs of where Class Members worked in the vineyards, Scheid's written CBA policies as to time worked and meal and rest periods, and Class Member declarations supporting Scheid's contentions.

24. With significant investigation, research, informal discovery, and analysis of data by Plaintiff and her damages consultant completed, the Parties mediated with Mr. Kyriacou on July 14, 2022. After a full day of arms'-length negotiations, Mr. Kyriacou tendered a mediator's proposal, accepted by the Parties on July 21, 2022. An MOU was fully executed on August 29, 2022 and the settlement agreement, presented for preliminary approval, was fully executed on October 10, 2022.

25. Scheid will pay a non-reversionary, maximum Gross Settlement Amount ("GSA") of \$1,250,000 which includes: (a) attorneys' fees not to exceed of \$416,666.67 (1/3 of GSA); to compensate Class Counsel for work performed and remaining to secure final Court approval; (b) litigation costs of \$15,000.00; (c) Class Representative Service Award of \$7,500.00 to Plaintiff Gabriela Chavez, for work as Class Representative, risks undertaken for costs if the case had not successfully concluded, and benefits conferred on the Class; (d) PAGA Payment of \$125,000.00 [\$93,750.00 to LWDA (75%)/\$31,250.00 to Aggrieved Employees (25%]); and (e) Settlement Administration costs of \$10,000.00. Scheid will pay employer's payroll taxes in addition to the GSA.

26. After approved deductions, the estimated \$675,833.33 Net Settlement Amount ("NSA") will be distributed to Participating Class Members. Individual Class Payments will be calculated based on the number of Class Period workweeks that each Participating Class Member worked. Class Members will receive an estimated \$13.80 for each workweek worked during the Class Period (\$675,833.33/48,970 workweeks), with an average Individual Class Payment of \$1,557.22 (\$675,833.33/434 Class Members). Settlement payments are characterized as 33.33% unpaid wages (W-2), 33.33% unpaid interest (Form 1099), and 33.33%

1 as alleged statutory and civil penalties (Form 1099).

2 27. The Settlement distribution is fair and reasonable, does not give preferential
3 treatment to any Class Member, can be made from data readily available from Scheid, and the
4 Administrator can apply the formula fairly and transparently.

5 28. CPT will search the National Change of Address database, update Class
6 Members' addresses, and mail the Notice of Settlement ("Class Notice") to each Class Member.

7 29. The Class Notice explains how to challenge the basis of an Individual Settlement
8 Payment; object or opt-out; the release to be given; date of Final Approval hearing; how to get
9 further information; and that no claim form is necessary.

10 30. All Participating Class Members, on behalf of themselves and their respective
11 former and present representatives, agents, attorneys, heirs, administrators, successors, and
12 assigns, irrevocably and unconditionally release the Released Parties from all claims that were
13 alleged, or reasonably could have been alleged, based on the allegations stated in the Operative
14 Complaint and ascertained in the course of the Action. The operative First Amended Complaint
15 alleged putative class claims against Defendant on behalf of Plaintiff and all hourly, non-exempt
16 employees employed by Defendant in the state of California from July 2, 2017 through the date
17 of trial, for violations of Labor Code sections 201-204, 218.5, 226, 226.2, 226.7, 510-512, 860,
18 1174, 1194, 1194.2, 1197, 1197.1, 1198, all applicable IWC Wage Orders, and California
19 Business and Professions Code §§ 17200, *et seq.* as well as a cause of action under the PAGA
20 on behalf of those employed from July 2, 2020 through the date of trial.

21 31. The Settlement was reached through arm's-length negotiations facilitated by Gig
22 Kyriacou, Esq., an experienced and respected mediator. Though cordial and professional,
23 negotiations were at all times adversarial and non-collusive.

24 32. Plaintiff's Counsel investigated all claims and defenses before filing. When the
25 Parties agreed to mediation, Plaintiff requested, and Defendant produced, all data and
26 documents needed to assess liability and calculate Class-wide damages.

27 33. Investigation and informal discovery gave the Parties a clear understanding of
28 their strengths and weaknesses before negotiations. Proof of wage and hour class claims is

1 based, at any stage, almost entirely on written policies, class member and workweek numbers,
2 and time and pay records. Plaintiff's counsel obtained those records, and an expert analyzed
3 them and prepared a damage model before a settlement was negotiated.

4 34. Counsel was able to compare settlement of Class claims with risks of
5 certification, trial, and appeal. Scheid's counsel, Gilbert J. Tsai and Josue R. Aparicio of
6 Hanson Bridgett LLP are skilled lawyers, with significant class action experience, who
7 defended Scheid vigorously at all stages.

8 35. Experienced counsel believe the Settlement is fair, reasonable, and in the Class'
9 best interest in light of the monetary recovery, risks of certification, summary adjudication, the
10 lengthy process of establishing damages, and uncertainty of appeals.

11 36. Class Counsel reviewed all relevant policies and relied on similar data as in
12 *Munoz*. Plaintiff's consultant analyzed voluminous data and documents, and calculated Class-
13 wide damages through the date of mediation.

14 37. Based on the damage assessments made for each claim, the \$1,250,000 GSA is
15 fair and reasonable given that it represents approximately 110% of the \$1,134,979.90 rationally
16 discounted damages on the claims alleged (inclusive of interest, but exclusive of PAGA
17 Penalties).

18 38. Multiplying the five minutes for which Plaintiff alleges field Class Members
19 were not paid per shift for walk time by the number of shifts worked yields damages of
20 \$171,034.36 [121,735 shifts x 5 minutes, or 0.083 hours= 10,104 hours; (8,084 hours x \$15.39=
21 \$124,412.76) + (2,020 hours x \$23.08=\$46,621.60) = \$171,034.36].

22 39. Given the difficulty in certifying and prevailing on this off the clock claim,
23 Plaintiff believed the reasonable value of this claim was 25% of maximum exposure, or
24 \$42,758.59. With interest, this value is **\$62,602.85**.

25 40. Plaintiff contends that Scheid's time records showed unique missed, late, or short
26 meal periods for Class Members: 1,908 for 15 field workers analyzed and 2,754 for 29 non-field
27 workers analyzed. Plaintiff's consultant extrapolated this sample data to the group,
28 extrapolating 17,912 violations for 142 field workers and 32,441 violations for 292 non-field

workers. Plaintiff contends that Scheid did not offset these alleged violations with meal period premiums.

41. Multiplying the total number of unique meal period violations by the hourly pay rate yields unpaid meal period premium damages of \$774,932.67 [$17,912 + 32,441 = 50,353$ violations $\times \$15.39 = \$774,932.67$].

42. However, recognizing only one meal period premium may be owed per shift, regardless of the number of meal period violations suffered, and that a second meal period may be waived if the first meal period is taken, a more appropriate exposure figure of \$502,668.18 was calculated, subtracting the premium wages for failure to provide a second meal period. Also recognizing that Scheid could raise individualized defenses to liability (e.g. that Class Members chose to skip meal periods) which could prevent certification or a finding of liability, Plaintiff believed the reasonable value of this claim was 50% of maximum exposure, or \$251,334.09. With interest, this value is **\$329,447.72**.

43. Scheid's sampled time records revealed 44 Class Members worked 22,441 shifts over three and one-half hours, entitling them to a rest period, which Plaintiff's consultant extrapolated to 233,322 shifts for 434 Class Members.

44. Assuming a rest break violation was suffered once per week, there would have been a rest period violation on 46,664 shifts, yielding \$718,158.96 in damages ($46,664 \times \15.39). The potential value of this claim was discounted substantially given the challenges of proving when each Class Member missed a rest period and certifying a rest period claim, especially given that Scheid had a written policy to provide 15-minute rest periods to Class Members. Given these issues, Plaintiff believed the reasonable value of this claim was 25% of maximum exposure, or \$179,539.74. With interest, this value is **\$235,339.97**.

45. Multiplying 10,780, the number of Pay Periods going back one-year from the date of filing, by the initial violation rate of \$50 yielded a maximum exposure of \$539,000. Assuming Plaintiff prevailed on at least one underlying claim, Plaintiff estimated probability of certification at 50% and probability of prevailing at trial at 50%, resulting in a discounted realistic exposure of \$134,750. With interest, this value is **\$176,629.76**.

46. Multiplying the number of former employees during the statutory period by their average daily wage for thirty days produces maximum exposure of \$1,009,950 [250 separated employees x \$134.66 average daily wage x 30 days]. Records revealed an average shift length of 8.5 hours and an average hourly wage of \$15.39, with an overtime wage of \$23.08. [(8 hours x \$15.39) + (0.5 hours x \$23.08) = \$134.66].

47. Plaintiff considered this derivative violation requires Plaintiff to prevail on the underlying wage claim and to show the violation was “willful.” Even if Scheid were found to owe wages to some former employees, it could be found to have a good faith belief it was paying wages properly, and “a good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203.” *Hill v. Walmart Inc.*, 2021 U.S. Dist. LEXIS 20950, *17 (N.D. Cal. January 14, 2021) (triable issues found as to whether Walmart actually misclassified employees as independent contractors, but court found Walmart had a “good faith belief” it properly classified them and could not be liable for waiting time penalties).

48. Based on the risk an underlying violation would not be proven, and if proven, the likelihood Scheid would be found to have a good faith belief it was providing all wages owed, Plaintiff believed realistic exposure was less than 25% of maximum exposure, or no more than **\$252,487.50**. With interest, this value is **\$330,959.60**.

49. Based on Scheid’s data, there were an estimated 19,068 pay periods from the start of the PAGA period, July 2, 2020, through mediation.

50. Using initial violation rates maximum penalties were estimated at \$9,559,000, for six violations: Sec. 1194 (minimum wages) – \$1,906,800; Sec. 510 (overtime) – \$1,906,800; Sec. 226.7 (meal) – \$1,906,800; Sec. 226.7 (rest) - \$1,906,800; Sec. 226 (wage statements)– \$1,906,800; Sec. 203 (final pay) for 250 formers - \$25,000 (all claims at \$100 per pay period).

51. Maximum realistic exposure was discounted to 5%, or **\$477,950**. Even if the PAGA claim is viable, there were risks Plaintiff would not prove the underlying violations; and, if proven, the Court has authority to reduce penalties, as long as not to “zero.”

///

52. Plaintiff gave serious consideration to all facts and arguments and concluded the Settlement is fair and reasonable. The Gross Settlement Amount represents approximately 110% of the maximum reasonable value of the Class claims. The proposed settlement is well within the “ballpark” of reasonableness.

53. The \$125,000 PAGA settlement, will be paid \$93,750 (75%) to the LWDA, and \$31,250 (25%) to Aggrieved Employees. Where PAGA penalties are negotiated in good faith, with “no indication [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are considered reasonable. *Hopson v. Hanesbrands Inc.*, Case No. 08-00844, 2009 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3, 2009).

54. The \$125,000 PAGA allocation, representing ten percent of the GSA, is well within the range approved by California courts.

55. When an ascertainable and sufficiently numerous class exists, with a well-defined community of interest, and class litigation is superior to alternate means, certification is appropriate. The Class is ascertainable from Scheid’s records, and is so numerous joinder would be impracticable.

56. Plaintiff alleges each Class Member was subject to the same policies which damaged her, including the lack of a policy to provide meal and rest periods premium wages, which led to these damages and to derivative penalties. Where the same alleged conduct forms the basis for Plaintiff and class claims, it is common for settlement purposes.

57. Plaintiff can and will continue to protect the interests of the Class. Plaintiff accepted the risks of serving as a class representative, spent significant time assisting in the prosecution of the action, and placed the interest of the class above her own.

58. On the same date this motion and its supporting documents and exhibits are filed with the Court, they will be served upon Defendant and provided to the LWDA via the LWDA’s website, using the appropriate intake form. Attached as Exhibit 2 is a true and correct copy of the LWDA confirmation of Receipt.



Isam C. Khoury

EXHIBIT 1

HANSON BRIDGETT LLP
GILBERT J. TSAI, SBN 247305
gtsai@hansonbridgett.com
JOSUE R. APARICIO, SBN 322750
japaricio@hansonbridgett.com
425 Market Street, 26th Floor
San Francisco, California 94105
Telephone: (415) 777-3200
Facsimile: (415) 541-9366

Attorneys for Defendant
SCHEID VINEYARDS INC.

COHELAN KHOURY & SINGER
ISAM C. KHOURY, SBN 58759
ikhoury@ckslaw.com
MICHAEL D. SINGER, SBN 115301
msinger@ckslaw.com
605 C. Street, Suite 200
San Diego, CA 92101
Telephone: (619) 595-3001
Facsimile: (619) 595-3000

LAW OFFICES OF SAHAG MAJARIAN II
SAHAG MAJARIAN, SBN 146621
sahagii@aol.com
18250 Ventura Blvd.
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiff
GABRIELA CHAVEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MONTEREY

GABRIELA CHAVEZ, on behalf of herself
and other similarly-situated employees,

Plaintiff,

v.

SCHEID VINEYARDS INC., a Delaware
Corporation; and DOES 1 Through 10,
inclusive,

Defendants.

Case No. 21CV002126

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Complaint Filed: July 2, 2021

1st Amended Complaint Filed: September 7, 2021

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between Plaintiff Gabriela Chavez (“Plaintiff” or “Class Representative”), individually and on
3 behalf of all putative Class Members and Aggrieved Employees, on the one hand, and Defendant
4 Scheid Vineyards, Inc. (“Defendant”), on the other hand. The Agreement refers to Plaintiff and
5 Defendant collectively as the “Parties,” or individually as “Party.”

6 **1. DEFINITIONS**

7 **1.1 “Action”** means the Plaintiff’s lawsuit originally filed against Defendant on July 2,
8 2021, entitled *Gabriela Chavez v. Scheid Vineyards, Inc.*, and amended on
9 September 7, 2021, pending in the Superior Court of the State of California,
10 County of Monterey, Case No. 21CV002126.

11 **1.2 “Aggrieved Employee(s)”** means any current or former, hourly, nonexempt
12 employee employed by Defendant in California at any time during the PAGA
13 Period.

14 **1.3 “Class Counsel”** means Isam C. Khoury of Cohelan Khoury & Singer, and Sahag
15 Majarian of the Law Offices of Sahag Majarian II.

16 **1.4 “Class Counsel Expense Payment”** means the amount allocated to Class Counsel
17 for reimbursement of expenses incurred to prosecute the Action, and subject to
18 court approval.

19 **1.5 “Class Counsel Attorney’s Fee Payment”** means the amount allocated to Class
20 Counsel for reimbursement of reasonable attorneys’ fees incurred to prosecute the
21 Action, and subject to court approval.

22 **1.6 “Class Data”** means Class Members’ and Aggrieved Employees’ identifying
23 information in Defendant’s possession, including each of their names, last-known
24 mailing address, last-known phone number, Social Security number, and number of
25 Class Period Workweeks and PAGA Period Pay Periods.

26 **1.7 “Class Member(s)”** means any current or former, hourly, nonexempt employee
27 employed by Defendant in California at any time during the Class Period, and
28 includes both Participating Class Members and Non-Participating Class Members.

1.8 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be
mailed to Class Members in English (with a Spanish translation) in the form,
without material variation, attached as Exhibit A and incorporated by reference into
this Agreement.

1.9 “Class Period” means the period from July 2, 2017 through December 31, 2022.

1.10 “Class Representative” means the named Plaintiff in the Operative Complaint in
the Action seeking Court approval to serve as a Class Representative.

1.11 “Class Representative Service Payment” means the payment to the Class
Representative for initiating the Action and providing services in support of the
Action.

1.12 “Court” means the Superior Court of California, County of Monterey.

- 1 **1.13 “Defense Counsel”** means Gilbert Tsai and Josue Aparicio of Hanson Bridgett
2 LLP.
- 3 **1.14 “Effective Date”** means the date by when both of the following have occurred: (a)
4 the Court enters a Judgment on its Final Approval of the Settlement; and (b) the
5 Judgment is final. The Judgment is final as of the latest of the following
6 occurrences: (i) if no Participating Class Member objects to the Settlement, the day
7 the Court enters Judgment; (ii) if one or more Participating Class Members objects
8 to the Settlement, the day after the deadline for filing a notice of appeal from the
9 Judgment; or (iii) if a timely appeal from the Judgment is filed, the day after the
10 appellate court affirms the Judgment and issues a remittitur.
- 11 **1.15 “Final Approval”** means the Court’s order granting final approval of the
12 Settlement.
- 13 **1.16 “Final Approval Hearing”** means the Court’s hearing on the Motion for Final
14 Approval of the Settlement.
- 15 **1.17 “Final Judgment” or “Judgment”** means the Judgment Entered by the Court
16 upon Granting Final Approval of the Settlement.
- 17 **1.18 “Individual Class Payment”** means the Participating Class Member’s pro rata
18 share of the Net Settlement Amount calculated according to the number of
19 Workweeks worked during the Class Period.
- 20 **1.19 “Individual PAGA Payment(s)”** means the Aggrieved Employee’s (including
21 Non-Participating Class Members who are Aggrieved Employees) pro rata share of
22 the PAGA Payout Fund (25% of the PAGA Payment) calculated according to the
23 number of Pay Periods worked during the PAGA Period.
- 24 **1.20 “LWDA”** means the California Labor and Workforce Development Agency.
- 25 **1.21 “LWDA PAGA Payment”** means Seventy-Five Percent (75%) of the PAGA
26 Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 27 **1.22 “Non-Participating Class Member”** means any Class Member who opts out of
28 the Settlement by sending the Settlement Administrator a valid and timely Request
for Exclusion.
- 1.23 “PAGA”** means the Private Attorneys General Act, Labor Code §§ 2698, *et seq.*
- 1.24 “PAGA Payment”** means the total amount of PAGA civil penalties to be paid
from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees
and 75% to the LWDA.
- 1.25 “PAGA Payout Fund”** means Twenty-Five Percent (25%) of the PAGA Payment
from which Individual PAGA Payments to Aggrieved Employees will be made.
- 1.26 “PAGA Period”** means the period from July 2, 2020 through December 31, 2022.
- 1.27 “PAGA Notice”** means Plaintiff’s letter to the LWDA and Defendant providing
notice pursuant to Labor Code section 2699.3, subd.(a), as set forth in Section 2.1
herein.

- 1 **1.28 “Participating Class Member”** means a Class Member who does not submit a
valid and timely Request for Exclusion from the Settlement.
- 2
- 3 **1.29 “Pay Period” or “PAGA Period Pay Period”** means any pay period during which
an Aggrieved Employee worked for Defendant for at least one day, during the
PAGA Period.
- 4
- 5 **1.30 “Preliminary Approval” or “Preliminary Approval Order”** means the Court’s
Order Granting Preliminary Approval of the Settlement.
- 6
- 7 **1.31 “Released Parties”** means Defendant and each of its former and present directors,
officers, shareholders, owners, attorneys, insurers, predecessors, successors,
assigns, subsidiaries, and affiliates.
- 8
- 9 **1.32 “Settlement”** means the disposition of the Action effected by this Agreement and
the Judgment.
- 10
- 11 **1.33 “Settlement Administrator” or “Administrator”** means CPT Group, Inc., the
neutral entity the Parties have agreed to appoint to administer the Settlement.
- 12
- 13 **1.34 “Settlement Administration Payment”** means the amount the Settlement
Administrator will be paid from the Gross Settlement Amount to reimburse its
reasonable fees and expenses in accordance with the Administrator’s “not to
exceed” bid submitted to the Court in connection with Preliminary Approval of the
Settlement.
- 14
- 15 **1.35 “Settlement Group Members”** means and includes Aggrieved Employees,
Participating Class Members, and Non-Participating Class Members who qualify as
Aggrieved Employees.
- 16
- 17 **1.36 “Workweek” or “Class Period Workweek”** means any week during which a
Class Member worked for Defendant for at least one day, during the Class Period.

18 **2. RECITALS**

- 19 **2.1** On July 1, 2021, Plaintiff submitted a PAGA Notice to the LWDA in accordance
with the requirements of Labor Code section 2699.3(a). Plaintiff’s PAGA Notice
alleged that Defendant had violated California Labor Code sections 201-204, 218.5,
226, 226.2, 226.7, 510-512, 860, 1174, 1194, 1197, 1197.1, 1198, and all
applicable Industrial Welfare Commission (“IWC”) Wage Orders.
- 21
- 22 **2.2** On July 2, 2021, Plaintiff commenced this Action by filing a Complaint in the
Superior Court of California, County of Monterey. The Complaint alleged putative
class claims against Defendant on behalf of Plaintiff and all hourly, non-exempt
employees employed by Defendant in the state of California from July 2, 2017
through the date of trial, for violations of Labor Code sections 201-204, 218.5, 226,
226.2, 226.7, 510-512, 860, 1174, 1194, 1194.2, 1197, 1197.1, 1198, all applicable
IWC Wage Orders, and California Business and Professions Code §§ 17200, *et seq.*
- 24
- 25 **2.3** On September 7, 2021, Plaintiff filed a First Amended Complaint, which added a
cause of action under the PAGA on behalf of all hourly, non-exempt employees
employed by Defendant in the state of California from July 2, 2020 through the
date of trial. The First Amended Complaint is the operative Complaint in the
Action (the “Operative Complaint.”)
- 27
- 28

1 **2.4** On July 14, 2022, the Parties participated in an all-day mediation presided over by
2 experienced mediator Gig Kyriacou. The Action did not settle at mediation.

3 **2.5** Prior to mediation, Defendant produced, and Plaintiff reviewed, a substantial
4 amount of data and documents relating to the size and scope of the putative Class
5 and Aggrieved Employees through an informal document production, which
6 permitted an analysis and evaluation of the statewide claims. Plaintiff's and Class
7 Counsel's investigation was sufficient to satisfy the criteria for court approval set
8 forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and
9 *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130
10 (*"Dunk/Kullar"*).

11 **2.6** The Parties continued to negotiate at arms-length through counsel and reached an
12 agreement in principle to settle this Action in August 2022, which was later
13 memorialized in a Memorandum of Understanding and fully executed by both sides
14 on August 17, 2022.

15 **3. ACKNOWLEDGEMENTS**

16 **3.1 Estimated Number of Putative Class Members.** Based on its records, Defendant
17 estimates that, as of the date of this Settlement Agreement, there are approximately
18 **434** putative Class Members.

19 **3.2 Estimated Number of Aggrieved Employees.** Based on its records, Defendant
20 estimates that, as of the date of this Settlement Agreement, there are approximately
21 **282** aggrieved employees.

22 **3.3 Conditional Certification for Settlement Purposes Only.** Solely for the purpose
23 of effectuating this Settlement, and subject to Court approval, the Parties hereby
24 stipulate to the conditional certification of the settlement class. The Parties agree
25 that certification for purposes of settlement is not an admission that class
26 certification is otherwise proper under Section 382 of the Code of Civil Procedure.
27 The Parties agree that if, for any reason, the Settlement is not preliminarily and
28 finally approved, the conditional certification of the settlement class will be of no
29 force or effect and shall become null and void; does not constitute an admission by
30 Defendant that class certification is proper; shall be inadmissible for any purpose in
31 any action; shall have no bearing on the issue of whether or not certification would
32 be appropriate in a non-settlement context; will not be deemed admissible in this or
33 any other proceeding; and the Parties shall revert to the respective positions they
34 held prior to entering into this Agreement, including that the Parties will litigate the
35 issue of class certification. Defendant expressly reserves its right and declares that
36 it intends to oppose class certification vigorously should this Settlement not be
37 granted final approval.

38 **3.4 Fair, Adequate, and Reasonable Settlement.** The Parties and their respective
39 counsel believe and warrant that this Agreement reflects a fair, reasonable, and
40 adequate settlement of the Action, and have arrived at this Agreement through
41 arms-length negotiations, taking into account all relevant factors, current and
42 potential.

43 **3.5 Benefits of Settlement to Settlement Group Members.** Plaintiff and Class
44 Counsel recognize the expense and length of continued proceedings necessary to
45 continue the litigation against Defendant through trial and through any possible
46 appeals. Plaintiff and Class Counsel also have taken into account the uncertainty
47 and risk of further litigation, the potential outcome, and the difficulties and delays

1 inherent in such litigation. Accordingly, based on their own thorough, independent
2 investigation and evaluation of this case, Plaintiff and Class Counsel strongly
3 believe the settlement set forth in this Agreement is a fair, adequate, and reasonable
4 settlement, and is in the best interest of the Settlement Group Members.

5 **3.6 Benefits of Settlement to Defendant.** While Defendant maintains that it complied
6 with applicable law at all times and that Plaintiff's claims are meritless, it
7 recognizes that the defense of the Action will be protracted and expensive.
8 Substantial amounts of time, energy, and resources of Defendant have been and,
9 unless this settlement is made, will continue to be devoted to the defense of the
10 claims asserted by Plaintiff. Defendant, therefore, enters into this Agreement and
11 conditional Settlement with no admission of liability whatsoever, and for the sole
12 purpose of compromising and settling the Action to avoid the cost, uncertainty and
13 operational burden of continuing litigation.

14 **3.7 No Admission of Liability.** This Agreement represents a compromise and
15 settlement of highly disputed claims. Nothing in this Agreement is intended or will
16 be construed as an admission by Defendant that the claim and allegations in the
17 Action have merit or that Defendant bears any liability to Plaintiff, the State of
18 California, or the Settlement Group Members on any alleged claims or any other
19 claims. Defendant vigorously denies the claims and each of the allegations asserted
20 in this Action. Defendant further specifically denies any non-compliance,
21 intentional or otherwise, with the statutory requirements of the California Labor
22 Code and/or the applicable IWC Wage Orders. Defendant also denies that Plaintiff
23 or any of the Settlement Group Members have suffered damages by virtue of
24 Defendant's conduct, or that Defendant's conduct warrants penalization.

25 **3.8 Reservation of Rights.** Defendant expressly reserves the right and declares that it
26 intends to oppose and defend against this Action vigorously should this Settlement
27 not be granted approval by the Court or be modified or reversed on appeal or
28 otherwise not become final. If for any reason this Agreement does not become
effective, Defendant reserve the right to defend against this Action on any basis.
Defendant does not concede the merits of Plaintiff's contentions, nor the existence
of any damages or penalties, but has agreed to resolve the litigation through this
Settlement in recognition of the expense and risk of continuing with the litigation
and in the belief that the settlement is fair, adequate and reasonable. Therefore, in
entering into this Agreement, it is the Parties' mutual intention and agreement that
if, for any reason, this Agreement does not become final, Defendant will retain all
rights to defend against this Action, and the fact of this Settlement may not be used
by Plaintiff in support of any argument against Defendant. Defendant will not be
deemed to have waived, limited, or affected in any way any of its claims, rights,
remedies, objections or defenses in the Action.

3.9 Non Evidentiary Use. This Agreement or its terms, or any statements or conduct
in the negotiation or drafting of it, shall not be admissible, offered or used as
evidence by Plaintiff, any Settlement Group Members, Defendant, or their
respective counsel in the Action or in any other proceeding as evidence of liability
or wrongdoing by Defendant and/or the Released Parties, or for any purpose
whatsoever. This Agreement may be used by Defendant and/or the Released Parties
to prove or defend against any claim released herein by Plaintiff or any Settlement
Group Member in any claim or threatened claim, including but not limited to any
judicial, quasi-judicial, administrative, or governmental proceeding. This
Agreement shall not be subject to collateral attack by any Settlement Group
Member. Such prohibited collateral attack shall include, but is not limited to claims

that any Settlement Group Members failed, for any reason, to timely receive or cash his or her Individual Class Payment and/or Individual PAGA Payment.

4. SETTLEMENT TERMS AND CONDITIONS

4.1 Gross Settlement Amount ("GSA"). Defendant agrees to pay a non-reversionary, maximum Gross Settlement Amount ("GSA") of no more than One Million Two Hundred and Fifty Thousand dollars (**\$1,250,000.00**), and to separately pay its share of employer-side payroll taxes owed on the wage portions of the Individual Class Payments. Defendant is under no obligation to pay the GSA (or any payroll taxes) prior to the deadline stated in Section 5.2.1 of this Agreement.

4.2 Payments from the GSA. The Settlement Administrator will make and deduct the following payments from the GSA, in the amounts specified by the Court in the Final Approval:

4.2.1 Settlement Administration Payment. A payment to the Settlement Administrator for costs and expenses incurred to administer this Settlement, not to exceed Ten Thousand dollars (**\$10,000.00**), except for a showing of good cause and as approved by the Court. To the extent Settlement Administration costs and expenses are less or the Court approves payment less than Ten Thousand dollars (**\$10,000.00**), the Settlement Administrator will allocate the remainder to the Net Settlement Amount ("NSA").

4.2.2 Class Representative Service Payment. A payment to the Class Representative not to exceed Seven Thousand Five Hundred dollars (**\$7,500.00**), and subject to Court approval. The Class Representative Service Payment is in addition to any individual payment the Class Representative is entitled to as a Settlement Group Member. If the Court approves a Class Representative Service Payment less than the amount requested, the Settlement Administrator will allocate the remainder to the NSA. The Settlement Administrator will report the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

4.2.3 Class Counsel Fee Payment. A payment to Class Counsel not to exceed 33.3% of the GSA, which is currently estimated to be Four Hundred Sixteen Thousand Six Hundred Sixty-Six dollars and Sixty-Seven cents (**\$416,666.67**), and subject to Court approval. If the Court approves a Class Counsel Fee Payment less than the amount requested, the Settlement Administrator will allocate the remainder to the NSA. The Settlement Administrator will report the Class Counsel Fee Payment using IRS Form 1099. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fee Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of the Class Counsel Fee Payment.

4.2.4 Class Counsel Expense Payment. A payment to Class Counsel not to exceed Fifteen Thousand dollars (**\$15,000.00**) for litigation expenses, which is subject to court approval. If the Court approves a Class Counsel Expense Payment less than the amount requested, the Settlement Administrator will allocate the remainder to the NSA. The Settlement Administrator will report the Class Counsel Expense Payment using IRS Form 1099. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel

Expense Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of the Class Counsel Expense Payment.

4.2.5 PAGA Payment. One Hundred and Twenty-Five Thousand dollars (\$125,000.00) of the GSA shall be considered payment for alleged civil penalties under the PAGA ("PAGA Payment"). If the Court approves a PAGA Payment of less than the amount requested, the Settlement Administrator will allocate the remainder to the NSA. Subject to Court approval, the PAGA Payment will be allocated as follows:

- (a) **To the LWDA.** The Settlement Administrator shall pay to the LWDA Seventy-Five Percent (75%) of the PAGA Payment, which is currently estimated to be Ninety-Three Thousand Seven Hundred Fifty dollars (\$93,750.00).
- (b) **To Aggrieved Employees.** The Settlement Administrator shall allocate Twenty-Five Percent (25%) of the PAGA Payment to create the PAGA Payout Fund to be paid out to Aggrieved Employees, which is currently estimated to be Thirty-One Thousand Two Hundred Fifty dollars (\$31,250.00). Each Aggrieved Employee will receive a proportionate share of the PAGA Payout Fund that is equal to the number of PAGA Period Pay Periods he or she worked for Defendant based on the Class Data provided by Defendant.
- (c) **Calculation of Individual PAGA Payments.** The Settlement Administrator will calculate each Individual PAGA Payment by (i) dividing the amount of the PAGA Payout Fund (currently estimated to be \$31,250.00) by the total number of pay periods collectively worked by all Aggrieved Employees during the PAGA Period, and (ii) multiplying the result by the number of Pay Periods each Aggrieved Employee worked during the PAGA Period. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Individual PAGA Payment ties directly to the amount of PAGA Period pay periods that he or she worked.
- (d) **Tax Allocation of Individual PAGA Payments.** The Individual PAGA Payments will be apportioned as 100% civil penalties and shall be reported using IRS 1099 Forms. Payroll tax withholdings and deductions will not be withheld from these Individual PAGA Payments. Plaintiff and each Aggrieved Employee bear the full responsibility for payment of any taxes or withholdings that are found to be owed from the Individual PAGA Payments.

4.3 Net Settlement Amount ("NSA"). The Net Settlement Amount ("NSA") is to be paid to Participating Class Members as Individual Class Payments. The NSA includes the GSA Amount, less the following payments in the amounts approved by the Court: Settlement Administration Payment; Class Representative Service Payment; Class Counsel Fee Payment; Class Counsel Expense Payment; and PAGA Payout Fund.

4.3.1 Calculation of Individual Class Payments. An Individual Class Payment shall be made to each Participating Class Member. Individual Class Payments shall be calculated by (a) dividing the NSA by the total number of

Workweeks collectively worked by all Participating Class Members during the Class Period, and (b) multiplying the result by number of Workweeks worked by each individual Participating Class Member. One day worked in a given Workweek will be credited as a Workweek for purposes of this calculation. Therefore, the value of each Individual Class Payment ties directly to the amount of Class Period Workweeks that he or she worked.

4.3.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive an Individual Class Payment. The Settlement Administrator will allocate amounts equal to their Individual Class Payments in the NSA for distribution to Participating Class Members on a pro rata basis.

4.3.3 Tax Allocation of Individual Class Payments. Individual Class Payments to the Participating Class Members shall be apportioned as follows: 33.33% as payment for alleged unpaid wages, 33.33% as alleged unpaid interest, and 33.33% as alleged civil and statutory penalties. The Settlement Administrator will issue IRS W-2 Forms for alleged unpaid wages, and IRS 1099 Forms will be issued for alleged unpaid interest and alleged civil and statutory penalties. Plaintiff and each Participating Class Member bear the full responsibility for payment of any taxes or withholdings that are found to be owed from the Individual Class Payment.

5. SETTLEMENT FUNDING AND PAYMENTS

5.1 Wiring Instructions. As soon as practicable and no later than two (2) business days following the Effective Date, the Settlement Administrator shall provide to Defendant complete wiring instructions for the GSA, including, without limitation, the name of the account, name of the bank, routing number, and bank account number or such other pertinent information Defendant requires in order to effectuate payment in accordance with the terms of the Agreement.

5.2 Funding the GSA. Defendant shall fund the GSA by transmitting the sum into an escrow account to be established by the Settlement Administrator as approved by the Court, which funds shall be held in trust for the Settlement and created as a QSF as specified in Section 8.7.

5.2.1 Condition Precedent to Funding Settlement. Defendant shall transmit to the Settlement Administrator the GSA within twenty-one (21) calendar days of the Effective Date, provided that counsel for Defendant has received: (i) fully completed and signed IRS W-9 Forms from both Plaintiff Gabriela Chavez and Class Counsel; and (ii) complete wiring instructions from the Settlement Administrator as set forth in Section 5.1 herein.

5.2.2 No Further Obligations After Funding Settlement. Defendant shall be deemed to have fully met its payment obligations under this Agreement upon transfer and/or deposit of the GSA and shall assume no responsibility for the security or distribution of settlement funds following transfer and/or deposit of the GSA. Defendant shall have no further obligations under this Agreement after transferring the GSA to the Settlement Administrator. Nor will the payment of Individual Class Payments and Individual PAGA Payments obligate Defendant to confer any additional benefits or make any additional payments to Settlement Group Members (such as 401(k) contributions or bonuses).

5.3 Payment to Settlement Group Members. Within fourteen (14) calendar days after Defendant funds the GSA, the Settlement Administrator will mail checks for (i) all Individual Class Payments, and (ii) all Individual PAGA Payments. The Settlement Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Settlement Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered).

5.3.1 First Class U.S. Mailing of Settlement Checks. The Settlement Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Settlement Group Members via First Class U.S. Mail, postage prepaid.

5.3.2 Address Search. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. The Settlement Administrator must conduct an address search for all other Settlement Group Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check the Settlement Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Address Search. The Settlement Administrator need not take further steps to deliver checks to Settlement Group Members whose re-mailed checks are returned as undelivered. The Settlement Administrator shall promptly send a replacement check to any Settlement Group Member whose original check was lost or misplaced, and which was requested by the Settlement Group Member prior to the void date.

5.3.3 Void Date. The face of each check shall prominently state the date when the check will be voided, which will be one-hundred and ninety (190) calendar days after the date of mailing ("Void Date"). The Settlement Administrator will cancel all checks not cashed by the void date.

5.3.4 Cy Pres Recipient. For any Settlement Group Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Settlement Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient") Legal Aid at Work. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

5.4 Payment to Settlement Administrator. Within fourteen (14) calendar days after Defendant funds the GSA, the Settlement Administrator will make the Settlement Administration Payment.

5.5 Payment to LWDA. Within fourteen (14) calendar days after Defendant funds the GSA, the Settlement Administrator will make the LWDA Payment.

5.6 Payment to Plaintiff and Class Counsel. Within twenty-one (21) calendar days after Defendant funds the GSA, the Settlement Administrator will mail checks for (i) Class Counsel Fee Payment, (ii) the Class Counsel Expense Payment and (iii) the Class Representative Service Payment. Disbursement of the Class Counsel Fee Payment, the Class Counsel Expense Payment and the Class Representative Service

1 Payment shall not precede disbursement of Individual Class Payments and
2 Individual PAGA Payments.

3 **6. RELEASES OF CLAIMS**

4 **6.1 Plaintiff's Release.** In exchange for the consideration provided by Defendant under
5 this Agreement, Plaintiff and her respective former and present spouses,
6 representatives, agents, attorneys, heirs, administrators, successors, and assigns
7 generally, irrevocably and unconditionally releases, acquits, and forever discharges
8 the Released Parties from any and all claims, demands, rights, liabilities and causes
9 of action including, but not limited to: (a) all claims that were, or reasonably could
10 have been, alleged, based on the facts contained, in the Operative Complaint and
11 (b) all PAGA claims that were, or reasonably could have been, alleged based on
12 facts contained in the Operative Complaint or Plaintiff's PAGA Notice ("Plaintiff's
13 Release"). Plaintiff's Release does not extend to any claims or actions to enforce
14 this Agreement, or to any claims for vested benefits, unemployment benefits,
15 disability benefits, social security benefits, workers' compensation benefits that
16 arose at any time, or based on occurrences outside the Class Period. Plaintiff
17 acknowledges that Plaintiff may discover facts or law different from, or in addition
18 to, the facts or law that Plaintiff now knows or believes to be true but agrees,
19 nonetheless, that Plaintiff's Release shall be and remain effective in all respects,
20 notwithstanding such different or additional facts or Plaintiff's discovery of them.

21 **6.2 Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** Plaintiff
22 understands and expressly agrees that the general release set forth herein includes a
23 general release of all claims and a waiver of rights under Code of Civil Procedure
24 Section 1542, including but not limited to Plaintiff's Release, and a release of any
25 and all claims under the Age Discrimination in Employment Act, the Americans
26 with Disabilities Act, the Family Medical Leave Act, Title VII of the Civil Rights
27 Act, the California Fair Employment and Housing Act and the California Family
28 Rights Act. Plaintiff shall also waive the right to participate in, or to receive
recovery from, any other representative action, collective action, class action or
PAGA action brought by any other employee against Defendant. Plaintiff, on her
behalf and on behalf of her spouse, heirs, successors and assigns, understands and
expressly waives the benefits of California Civil Code § 1542 and agrees that this
Agreement extends to all of her claims against Defendant and the Released Parties,
regardless of nature or kind, whether known or unknown, suspected or
unsuspected, vested or contingent, whether in tort, contract, equity, or otherwise,
for violation of any federal, state or local statute, rule, ordinance or regulation,
arising from or attributable to any incident or event, occurring in whole or in part,
on or before the Parties' execution of this Settlement Agreement, including but not
limited to all claims arising out of, based upon, or relating to Plaintiff's
employment with Defendant or the remuneration for, or termination of, such
employment, and that any and all rights granted under any state or federal law or
regulation limiting the effect of this Agreement, including the provisions of Section
1542 of the California Civil Code, ARE HEREBY EXPRESSLY WAIVED.
Plaintiff's release includes a waiver of California Civil Code section 1542, which
provides as follows:

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

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of Defendant and the Released Parties, Plaintiff expressly acknowledges that this Agreement is intended to include in its effect, without limitation, all claims which she does not know or suspect to exist in her favor at the time of execution hereof, and that this Agreement contemplates the extinguishment of any such claim or claims. This release excludes any release of any claims not permitted to be released by law.

6.3 Participating Class Members' Release. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, irrevocably and unconditionally release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the allegations stated in the Operative Complaint and ascertained in the course of the Action.

6.4 Aggrieved Employees' Release. All Aggrieved Employees (including all Non-Participating Class Members who qualify as Aggrieved Employees), on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, irrevocably and unconditionally release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the allegations stated in the Operative Complaint, the PAGA Notice and/or ascertained in the course of the Action.

7. MOTION FOR PRELIMINARY APPROVAL

7.1 Class Counsel's Responsibilities. Within fourteen (14) calendar days of the full execution of this Agreement, Class Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including:

7.1.1 A draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2);

7.1.2 A draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement;

7.1.3 A signed declaration from the Settlement Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres Recipient; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel;

7.1.4 A signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator and/or the proposed Cy Pres Recipient;

7.1.5 A signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents; and all facts relevant to any

actual or potential conflict of interest with Class Members, the Settlement Administrator and/or the Cy Pres Recipient.

- 7.2 Responsibilities of Counsel.** Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) court days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval.
- 7.3 Submission to Settlement Administrator.** Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Settlement Administrator.
- 7.4 Submissions to LWDA:** Class Counsel shall submit a copy of this Agreement to the LWDA at the same time it is submitted to the Court in accordance with the requirements set forth in Section 2699(1)(2). Class Counsel shall also be responsible for submitting to the LWDA a copy of the Court's judgment and any other orders that award or deny civil penalties to the LWDA.
- 7.5 Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION

- 8.1 Settlement Administrator.** The Parties agree to use CPT Group, Inc. to serve as the Settlement Administrator to administer the Settlement. All of the Settlement Administrator's costs and fees shall be paid from the Settlement Administration Payment, not to exceed \$10,000.00, and subject to Court approval. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Settlement Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2 Class Data:** No later than fifteen (15) calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Settlement Administrator, in the form of a Microsoft Excel spreadsheet. The Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 8.2.1 Maintaining Employee Privacy.** To protect employee privacy rights, the Settlement Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Settlement Administrator employees who need access to the Class Data to effect and perform under this Agreement.
- 8.3 Class Notice.** No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel and Defense Counsel that the data has

1 been received and state the number of Class Members, Aggrieved Employees,
2 Workweeks, and Pay Periods in the Class Data.

3 **8.3.1 Mailing Notices.** Using best efforts to perform as soon as possible, and in
4 no event later than fourteen (14) calendar days after receiving the Class
5 Data, the Settlement Administrator will mail the Class Notice to all Class
6 Members and Aggrieved Employees identified in the Class Data, via first-
7 class United States Postal Service ("USPS") mail, with Spanish translation,
8 substantially in the form attached to this Agreement as **Exhibit A**. Before
9 mailing Class Notices, the Settlement Administrator shall update Class
10 Member and Aggrieved Employee mailing addresses using the National
11 Change of Address database.

12 **8.3.2 Re-Mailing Undeliverable Notices.** Not later than three (3) business days
13 after the Settlement Administrator's receipt of any Class Notice returned by
14 the USPS as undelivered, the Settlement Administrator shall re-mail the
15 Class Notice using any forwarding address provided by the USPS. If the
16 USPS does not provide a forwarding address, the Settlement Administrator
17 shall conduct an address search, and re-mail the Class Notice to the most
18 current address obtained. The Settlement Administrator has no obligation to
19 make further attempts to locate or send Class Notices that are returned by
20 the USPS a second time.

21 **8.3.3 Extended Response Deadline for Re-Mailed Notices.** The deadlines for
22 Class Members' written objections, Challenges to Workweeks and/or Pay
23 Periods, and Requests for Exclusion will be extended an additional fourteen
24 (14) calendar days beyond the sixty (60) calendar days otherwise provided
25 in the Class Notice for all Class Members whose notice is re-mailed. The
26 Settlement Administrator will inform the Class Member of the extended
27 deadline with the re-mailed Class Notice.

28 **8.3.4 Later-Identified Class Members and/or Aggrieved Employees.** If the
Settlement Administrator, Defense Counsel or Class Counsel is contacted
by or otherwise discovers any persons who believe they should have been
included in the Class Data and should have received Class Notice, the
Parties will expeditiously meet and confer in person or by telephone, and in
good faith, in an effort to agree on whether to include them as a Class
Member and/or Aggrieved Employee. If the Parties agree, such persons will
be entitled to the same rights as other Class Members and Aggrieved
Employees, and the Administrator will send, via email or overnight
delivery, a Class Notice requiring them to exercise options under this
Agreement not later than fourteen (14) days after receipt of Class Notice, or
the deadline dates in the Class Notice, whichever are later.

8.4 Requests for Exclusion (Opt-Outs). Class Members who wish to exclude
themselves (opt-out of) the Class Settlement must send the Settlement
Administrator, by fax, email, or mail, a signed written Request for Exclusion not
later than sixty (60) calendar days after the Settlement Administrator mails the
Class Notice (plus an additional 14 calendar days for Class Members whose Class
Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or
his/her representative that reasonably communicates the Class Member's election
to be excluded from the Settlement and includes the Class Member's name, address
and email address or telephone number. To be valid, a Request for Exclusion must
be timely faxed, emailed, or postmarked by the Response Deadline.

1 **8.4.1 Participating Class Members.** Every Class Member who does not submit
2 a timely and valid Request for Exclusion is deemed to be a Participating
3 Class Member under this Agreement, entitled to all benefits and bound by
4 all terms and conditions of the Settlement, including the Participating Class
Members' Releases under Section 6.3 of this Agreement, regardless of
whether the Participating Class Member actually receives the Class Notice
or objects to the Settlement.

5 **8.4.2 Non-Participating Class Members.** Every Class Member who submits a
6 valid and timely Request for Exclusion is a Non-Participating Class
7 Member and shall not receive an Individual Class Payment or have the right
8 to object to the class action components of the Settlement.

9 **8.4.3 Non-Participating Class Members Who are Aggrieved Employees.**
10 Because future PAGA claims are subject to claim preclusion upon entry of
11 the Judgment, Non-Participating Class Members who are Aggrieved
12 Employees are deemed to release the claims identified in Section 6.4 of this
13 Agreement and are eligible for an Individual PAGA Payment.

14 **8.5 Challenges to Workweek or Pay Period Calculations.** Each Class Member or
15 Aggrieved Employee shall have sixty (60) calendar days after the Settlement
16 Administrator mails Class Notice (plus an additional 14 calendar days for Class
17 Members whose Class Notice is re-mailed) to challenge the number of Class Period
18 Workweeks and/or PAGA Periods Pay Periods (if any) allocated to them in the
19 Class Notice. The Class Member may challenge the allocation by communicating
20 with the Settlement Administrator via fax, email or mail. The Settlement
21 Administrator must encourage the challenging Class Member to submit supporting
22 documentation. In the absence of any contrary documentation, the Settlement
23 Administrator is authorized to presume that the Workweeks and Pay Periods
24 contained in the Class Notice are correct so long as they are consistent with the
25 Class Data. The Settlement Administrator's determination of each Class Member's
26 allocation of Workweeks and/or Pay Periods shall be final and not appealable or
27 otherwise susceptible to challenge. The Settlement Administrator shall promptly
28 provide copies of all challenges to calculation of Workweeks and/or Pay Periods to
Defense Counsel and Class Counsel and the Settlement Administrator's
determination of the challenges.

8.6 Objections to Settlement. Only Participating Class Members may object to the
class action components of the Settlement and/or this Agreement, including
contesting the fairness of the Settlement, and/or amounts requested for the Class
Counsel Fee Payment, Class Counsel Expense Payment and/or Class
Representative Service Payment.

8.6.1 Rights of Participating Class Members. Participating Class Members may
send written objections to the Administrator, by fax, email, or mail. In the
alternative, Participating Class Members may appear in Court (or hire an
attorney to appear in Court) to present verbal objections at the Final
Approval Hearing. A Participating Class Member who elects to send a
written objection to the Settlement Administrator must do so not later than
sixty (60) calendar days after the Settlement Administrator's mailing of the
Class Notice (plus an additional 14 days for Class Members whose Class
Notice was re-mailed).

1 **8.6.2 Rights of Non-Participating Class Members.** Non-Participating Class
2 Members have no right to object to any of the class action components of
3 the Settlement.

4 **8.7 Qualified Settlement Fund (“QSF”).** The Settlement Administrator shall establish
5 a Qualified Settlement Fund (“QSF”) for the benefit of the Settlement Group
6 Members and from which all payments under this Agreement shall be paid. The
7 Settlement Administrator shall have its own Employer Identification Number under
8 IRS Form W-9 and shall use its own Employer Identification Number and shall
9 transmit the required employers’ and employees’ share of the withholdings, if any,
10 to the appropriate state and federal tax authorities. The Settlement Administrator
11 shall establish a settlement fund that meets the requirements of a QSF under U.S.
12 Treasury Regulation section 468B-1 and section 468B of the Internal Revenue
13 Code of 1986, as amended (the “Code”). The QSF shall be an interest-bearing
14 account at a federally insured bank that is mutually acceptable to the Parties and the
15 Settlement Administrator.

16 **8.7.1 QSF Administration.** The Settlement Administrator shall: (1) open and
17 administer the QSF in such a manner as to qualify and maintain the
18 qualification of the QSF as a “Qualified Settlement Fund” under Section
19 468B of the Code and Treas. Reg. Section 1.468B-1; (2) satisfy all federal,
20 state, and local income and other tax reporting, return, and filing
21 requirements with respect to Defendant and the QSF and any interest or
22 other income earned by the QSF; and (3) satisfy out of the QSF all (i) taxes
23 (including any estimated taxes, interest, or penalties) with respect to the
24 interest or other income earned by the QSF, and (ii) fees, expenses, and
25 costs incurred in connection with the opening and administration of the QSF
26 and the performance of its duties and functions as described in this
27 Agreement. The aforementioned taxes, fees, costs, and expenses shall be
28 treated as, and included in, the costs of administering the QSF and as
29 Settlement Administration Costs.

30 **8.7.2 Tax Reporting.** The Settlement Administrator shall provide copies to
31 Defendant of any federal, state, and local income or other tax reporting,
32 return, and filing prepared on Defendant’s behalf. The Parties agree to
33 cooperate with the Settlement Administrator and one another to the extent
34 reasonably necessary to carry out the provisions of this Section. The
35 Settlement Administrator shall be treated as an “administrator” as defined at
36 Treasury Regulation section 1.468B-2(k) for purposes of federal and state
37 income tax reporting with respect to the distributions and payments made
38 under this Agreement. Accordingly, Forms 1099 will be distributed by the
39 Settlement Administrator at times and in the manner required by the Code
40 and consistent with this Agreement. If the Code, the regulations
41 promulgated thereunder, or other applicable tax law, is changed after the
42 date of this Agreement, the processes set forth in this section may be
43 modified in a manner to comply with any such changes.

44 **8.8 Settlement Administrator Duties.** The Settlement Administrator has a duty to
45 perform or observe all tasks to be performed or observed by the Settlement
46 Administrator contained in this Agreement or otherwise.

47 **8.8.1 Email Address and Toll-Free Number.** The Settlement Administrator will
48 establish, maintain and monitor an email address and a toll-free telephone
49 number to receive calls and emails from Class Members and Aggrieved
50 Employees.

1 **8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List.** The Settlement
2 Administrator will promptly review on a rolling basis Requests for
3 Exclusion to ascertain their validity. Not later than five (5) calendar days
4 after the expiration of the deadline for submitting Requests for Exclusion,
5 the Settlement Administrator shall email a list to Class Counsel and Defense
6 Counsel containing (a) the names and other identifying information of Class
Members who have timely submitted valid Requests for Exclusion
("Exclusion List"); (b) the names and other identifying information of Class
Members who have submitted invalid Requests for Exclusion; and (c)
copies of all Requests for Exclusion from Settlement submitted (whether
valid or invalid).

7 **8.8.3 Weekly Reports.** The Settlement Administrator must, on a weekly basis,
8 provide written reports to Class Counsel and Defense Counsel that, among
9 other things, tally the number of: Class Notices mailed or re-mailed, Class
10 Notices returned undelivered, Requests for Exclusion (whether valid or
11 invalid) received, objections received, challenges to Workweeks and/or Pay
12 Periods received and/or resolved, and checks mailed for Individual Class
Payments and Individual PAGA Payments ("Weekly Report"). The Weekly
Reports must include the Settlement Administrator's assessment of the
validity of Requests for Exclusion and attach copies of all Requests for
Exclusion and objections received.

13 **8.8.4 Settlement Administrator's Declaration.** Not later than fourteen (14)
14 calendar days before the date by which Plaintiff is required to file the
15 Motion for Final Approval of the Settlement, the Settlement Administrator
16 will provide to Class Counsel and Defense Counsel, a signed declaration
17 suitable for filing in Court attesting to its due diligence and compliance with
18 all of its obligations under this Agreement, including, but not limited to, its
19 mailing of Class Notice, the Class Notices returned as undelivered, the re-
mailing of Class Notices, attempts to locate Class Members, the total
number of Requests for Exclusion from Settlement it received (both valid or
invalid), the number of written objections and attach the Exclusion List. The
Settlement Administrator will supplement its declaration as needed or
requested by the Parties and/or the Court. Class Counsel is responsible for
filing the Administrator's declaration(s) in Court.

20 **9. MOTION FOR FINAL APPROVAL**

21 **9.1 Final Approval Papers.** Not later than sixteen (16) court days before the
22 calendared Final Approval Hearing, Class Counsel will file in Court, a motion for
23 final approval of the Settlement that includes a request for approval of the PAGA
24 settlement under Labor Code section 2699, subd. (l), a proposed Final Approval
25 Order and a proposed Judgment (collectively "Motion for Final Approval"). Class
Counsel shall provide drafts of these documents to Defense Counsel not later than
seven (7) court days prior to filing the Motion for Final Approval. Class Counsel
and Defense Counsel will expeditiously meet and confer in person or by telephone,
and in good faith, to resolve any disagreements concerning the Motion for Final
Approval.

26 **9.2 Response to Objections.** Each Party retains the right to respond to any objection
27 raised by a Participating Class Member, including the right to file responsive
28 documents in Court no later than five (5) court days prior to the Final Approval
Hearing, or as otherwise ordered or accepted by the Court.

9.3 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement, the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fee Payment, Class Counsel Expense Payment and/or Settlement Administrator Payment shall not constitute a material modification to the Agreement.

9.4 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.5 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fee Payment and Class Counsel Expense Payment set forth in this Agreement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.6 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement, this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment, as long as the Gross Settlement Amount remains unchanged.

10. ADDITIONAL PROVISIONS

10.1 Confidentiality. Plaintiff, Class Counsel, Defendant and Defense Counsel agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) to the extent necessary to report income to appropriate taxing authorities; (3) to comply with disclosure obligations under applicable securities laws; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any

1 conversation or other communication, before the filing of the Motion for
2 Preliminary Approval, any with third party regarding this Agreement or the matters
3 giving rise to this Agreement except to respond only that “the matter was
4 resolved,” or words to that effect.

5 **10.2 No Public Statements.** The Parties agree and acknowledge that neither Plaintiff,
6 Defendant, nor their respective counsel will make any public statements (including
7 on counsel’s websites) or issue any press releases/comment to the press concerning
8 this Settlement.

9 **10.3 No Solicitation.** The Parties agree that they and their respective counsel and
10 employees will not solicit any Class Member to opt out of or object to the
11 Settlement, or appeal from the Judgment. Nothing in this paragraph shall be
12 construed to restrict Class Counsel’s ability to communicate with Class Members in
13 accordance with Class Counsel’s ethical obligations owed to Class Members.

14 **10.4 No Disparagement.** Plaintiff agrees not to make any disparaging comments about
15 Defendant or the Released Parties to any other person, firm or entity of any type or
16 to otherwise engage in any disparaging or defamatory conduct toward Defendant or
17 the Released Parties, and hereby acknowledges that Defendant will have available
18 all rights and remedies under the law, including but not limited to, actions for libel,
19 slander, and business slander.

20 **10.5 No Admission of Liability, Class Certification or Representative
21 Manageability for Other Purposes.** This Agreement represents a compromise and
22 settlement of highly disputed claims. Nothing in this Agreement is intended or
23 should be construed as an admission by Defendant that any of the allegations in the
24 Operative Complaint have merit or that Defendant has any liability for any claims
25 asserted; nor should it be intended or construed as an admission by Plaintiff that
26 Defendant’s defenses in the Action have merit. The Parties agree that class
27 certification and representative treatment is for purposes of this Settlement only. If,
28 for any reason, the Court does grant Preliminary Approval, Final Approval or enter
Judgment, Defendant reserves the right to contest certification of any class for any
reasons, and Defendant reserves all available defenses to the claims in the Action,
and Plaintiff reserves the right to move for class certification on any grounds
available and to contest Defendant’s defenses. The Settlement, this Agreement and
Parties’ willingness to settle the Action will have no bearing on, and will not be
admissible in connection with, any litigation (except for proceedings to enforce or
effectuate the Settlement and this Agreement).

21 **10.6 No Inducement.** The Parties acknowledge that they are entering into this
22 Agreement as a free and voluntary act without duress or undue pressure or
23 influence of any kind or nature whatsoever, and that neither Plaintiff nor Defendant
24 have relied on any promises, representations, or warranties regarding the subject
25 matter hereof other than as set forth in this Agreement.

26 **10.7 No Prior Assignments.** The Parties separately represent and warrant that they have
27 not directly or indirectly assigned, transferred, encumbered, or purported to assign,
28 transfer, or encumber to any person or entity and portion of any liability, claim,
demand, action, cause of action, or right released and discharged in this Settlement.

10.8 Attorneys’ Fees, Costs and Expenses. Except as otherwise specifically provided
for herein, each Party shall bear her or its own attorneys’ fees, costs and expenses.
In any suit or court action to enforce the terms of this Agreement, the prevailing
party shall be entitled to recover attorneys’ fees and costs.

1 **10.9 Attorney Authorization.** Class Counsel and Defense Counsel separately warrant
2 and represent that they are authorized by Plaintiff and Defendant, respectively, to
3 take all appropriate action required or permitted to be taken by such Parties
4 pursuant to this Agreement to effectuate its terms, and to execute any other
5 documents reasonably required to effectuate the terms of this Agreement including
6 any amendments to this Agreement.

7 **10.10 Defendant's Right to Withdraw.** Defendant has the right in its sole and exclusive
8 discretion to terminate and withdraw from the Settlement at any time prior to the
9 date the Court enters Final Approval of this Settlement if 10.00% or more of Class
10 Members timely and validly opt out of the Settlement or if the Court fails to
11 approve material terms of the settlement, including the scope of the release.
12 Defendant must make such election within fifteen (15) business days of being
13 notified by the Settlement Administrator of a 10.00% or greater opt-out rate or the
14 Court's denial of the settlement with prejudice.

15 **10.11 No Tax or Legal Advice.** Neither Plaintiff, Class Counsel, Defendant nor Defense
16 Counsel are providing any advice regarding taxes or taxability, nor shall anything
17 in this Settlement be relied upon as such within the meaning of United States
18 Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. It is
19 understood and agreed that neither Party nor their respective counsel are making
20 representations regarding tax obligations or consequences, if any, related to this
21 Agreement, and that Settlement Group Members will assume any such tax
22 obligations or consequences that may arise from this Agreement, and that
23 Settlement Group Members shall not seek any indemnification from the Parties or
24 their counsel or any of the Released Parties in this regard. The Parties agree that, in
25 the event that any taxing body determines that additional taxes are due from any
26 Settlement Group Members, such Settlement Group Members assume all
27 responsibility for the payment of such taxes. Plaintiff and the Settlement Group
28 Members should consult with their tax advisors concerning the tax consequences of
29 their Individual Class Payment, Individual PAGA Payment and/or Class
30 Representative Payment they receive pursuant to this Agreement.

31 **10.12 Headings.** The descriptive heading of any section or paragraph of this Agreement
32 is inserted for convenience of reference only and does not constitute a part of this
33 Agreement.

34 **10.13 Modification of Agreement.** This Agreement, and all parts of it, may be amended,
35 modified, changed, or waived only by an express written instrument signed by all
36 Parties or their representatives, and approved by the Court.

37 **10.14 Agreement Binding on Successors.** This Agreement will be binding upon, and
38 inure to the benefit of, the successors of each of the Parties.

39 **10.15 Applicable Law.** All terms and conditions of this Agreement and its exhibits will
40 be governed by and interpreted according to the internal laws of the state of
41 California, without regard to conflict of law principles.

42 **10.16 Cooperation in Drafting.** The Parties have each cooperated in the drafting and
43 preparation of this Agreement. This Agreement will not be construed against any
44 Party on the basis that the Party was the drafter or participated in the drafting.

45 **10.17 Integrated Agreement.** Upon execution by all Parties and their counsel, this
46 Agreement together with its attached exhibits shall constitute the entire agreement

between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.18 Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile, PDF, DocuSign (or similar e-signature) signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement, pursuant to Code of Civil Procedure section 583.330, to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

11. EXECUTION BY PARTIES AND COUNSEL

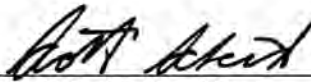
IN WITNESS WHEREOF, the Parties hereto execute this Agreement and have caused this Agreement to be executed by their duly authorized representatives. The date of the Agreement shall be the date of the latest signature.

AS TO CONTENT:

Dated: 10/07/2022, 2022

DocuSigned by:
Gabriela Chavez
FE79A3FAF3D44CA
Gabriela Chavez, Plaintiff

Dated: 10/3, 2022

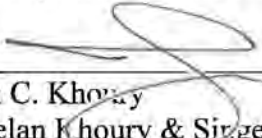

Scott Scheid, President
On behalf of Scheid Vineyards, Inc.

AGREED AS TO FORM:

Dated: 10/10, 2022

DocuSigned by:
Sahag Majarian
E060D300863543A
Sahag Majarian
Law Offices of Sahag Majarian II
Attorneys for Plaintiff Gabriela Chavez

Dated: October 6, 2022


Isam C. Khoury
Cohelan Khoury & Singer
Attorneys for Plaintiff Gabriela Chavez

1 Dated: October 5, 2022



Gilbert J. Tsai
Josue R. Aparicio
Hanson Bridgett, LLP
Attorneys for Defendant Scheid Vineyards, Inc.

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EXHIBIT A

Superior Court of California, County of Monterey
Gabriela Chavez v. Scheid Vineyards, Inc.
Case No. 21CV002126

*The Superior Court for the State of California authorized this Notice.
It's not junk mail, spam, an advertisement, or solicitation by a lawyer.
This is not a lawsuit against you and you are not being sued.*

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

To: All people employed by Scheid Vineyards, Inc., in California, as a non-exempt employee at any time from July 2, 2017 through December 31, 2022. **You may be eligible to receive money from an employee Class Action Settlement concerning your former or current employment with Scheid Vineyards, Inc. ("Scheid").** The Class Action lawsuit was filed by a former employee and seeks:

(A) **Class Payments.** Wages and penalties for a class of non-exempt employees who worked for Scheid during the **Class Period (July 2, 2017 to December 31, 2022)** (collectively "Class Members"); and

(B) **PAGA Payments.** Civil penalties under the California Private Attorneys General Act ("PAGA") for all non-exempt employees who worked for Scheid during the **PAGA Period (July 2, 2020 to December 31, 2022)** (collectively "Aggrieved Employees").

PLEASE READ THIS NOTICE CAREFULLY

The Court has preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Scheid to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims.

Based on Scheid's records, your individual Settlement payments are estimated to be:

- Class Payment is estimated to be \$ [REDACTED] (less withholding); and
- PAGA Payment is estimated to be \$ [REDACTED]. (If no amount is stated for your Individual PAGA Payment, then according to Scheid's records you did not work during the PAGA Period.)

The above estimates are based on Scheid's records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] pay periods during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 13 of this Notice for more information.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if applicable). In exchange, you will give up your right to assert wage claims against Scheid that are covered by this Settlement (“Released Claims”). Your payment will be automatically mailed to you after the Court grants final approval of the Settlement.
REQUEST TO BE EXCLUDED (“OPT-OUT”) FROM CLASS SETTLEMENT The Opt-Out Deadline is [REDACTED]	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. <i>Non-Participating Class Members cannot object to any portion of the proposed Settlement.</i> See Section 16 of this Notice for more information. You cannot opt-out of the PAGA portion of the proposed Settlement. Scheid must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
OBJECT The Objection Deadline is [REDACTED]	All Class Members who do not opt-out are “Participating Class Members” and can object to any aspect of the proposed Settlement. You have the right to object to the Settlement if you think the Settlement is unfair, unreasonable or inadequate by sending a written objection to the Settlement Administrator. <i>You cannot object to any portion of the proposed Settlement if you requested to be excluded.</i> See Section 18 of this Notice for more information.
UPDATE YOUR MAILING ADDRESS	Update your personal information with the Settlement Administrator to make sure your Settlement Payment is sent to the correct mailing address. See Section 10 of this Notice for more information.
CHALLENGE CALCULATION OF YOUR WORKWEEKS/ PAY PERIODS The Challenge Deadline is [REDACTED]	The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked during the Class Period and how many Pay Periods you worked during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Scheid’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED].
PARTICIPATE IN THE FINAL APPROVAL HEARING Hearing is Set For [REDACTED]	The Court’s Final Approval Hearing is scheduled to take place on [REDACTED]. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform.

SCHEID WILL NOT RETALIATE IN ANY WAY AGAINST ANY CLASS MEMBER FOR EXERCISING ANY OF THE RIGHTS AND OPTIONS DESCRIBED IN THIS NOTICE.

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BASIC INFORMATION

1. **What Is This Lawsuit About?**

This Lawsuit accuses Scheid of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”).

Scheid strongly denies all allegations of the Lawsuit and contends it complied with all applicable California laws. The Settlement is not an admission that Scheid did anything wrong or an indication any law was violated.

2. **What Is A Class Action?**

In a class action, one or more people called Class Representatives (in this case, Plaintiff Gabriela Chavez) sue on behalf of themselves and other people who may have similar claims. The group of people with similar claims are referred to collectively as a “Class.” Each person covered by the Class definition is a “Class Member.” One court resolves the issues for all Class Members, except those who ask to be excluded from the Class.

3. **Why Is There A Settlement?**

The Court did not decide in favor of Plaintiff or Defendant. The Parties hired an experienced, neutral mediator to resolve the Lawsuit by negotiating an to end the case by agreement rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Lawsuit and enforcing the Agreement, Plaintiff and Scheid have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Scheid does not admit any violations or concede the merit of any claims.

Gabriela Chavez, who was appointed the Class Representative, and her attorneys, believe the Settlement is fair, reasonable and adequate considering the strength of the claims and the risks and uncertainties of continued litigation.

4. **Who Are The Parties In This Lawsuit?**

Plaintiff Gabriela Chavez was employed by Scheid Vineyards, Inc. as a non-exempt employee.

Defendant Scheid Vineyards, Inc. was Plaintiff’s former employer.

5. Who Are The Attorneys For The Parties?

Attorneys for Plaintiff and the Class

COHELAN KHOURY & SINGER

Isam C. Khoury
605 “C” Street, Suite 200
San Diego, CA 92101

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian, II
18250 Ventura Blvd.
Tarzana, CA 91356

Attorneys for Defendant

HANSON BRIDGETT LLP

Gilbert J. Tsai
Josue R. Aparicio
425 Market Street, 26th Floor
San Francisco, California 94105

IMPORTANT TERMS OF THE SETTLEMENT

6. What Is The Settlement Amount?

Gross Settlement Amount. Scheid agreed to pay a maximum amount of no more than One Million Two Hundred and Fifty Thousand dollars (\$1,250,000.00) to fully and finally resolve all claims alleged in the Lawsuit (referred to as the “Gross Settlement Amount” or “GSA”). The Administrator will use the GSA to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Scheid will deposit the GSA into a Qualified Settlement Account not more than twenty-one (21) calendar days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement and/or the Judgment is appealed.

Court Approved Deductions From GSA. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the GSA, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to **\$416,666.67** (33% of the GSA) to Class Counsel for attorneys’ fees and up to **\$15,000.00** for their litigation expenses. To date, Class Counsel have worked and incurred expenses without payment.

B. Up to **\$7,500.00** as a Class Representative Award for filing the Lawsuit, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and Individual PAGA Payment.

C. Up to **\$10,000.00** to the Administrator for services administering the Settlement.

D. Up to **\$125,000.00** for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Net Settlement Distributed To Participating Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the GSA (referred to as the “Net Settlement Amount” or “NSA”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

Administrator. The Court has appointed a neutral company, CPT Group, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and pay periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 22 of this Notice.

7. How Will The Administrator Calculate My Payment?

- A. **Individual Class Payments.** The Administrator will calculate Individual Class Payments by (a) dividing the NSA by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
- B. **Individual PAGA Payments.** The Administrator will calculate Individual PAGA Payments by (a) dividing \$125,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

8. What Am I Giving Up In Exchange For My Payment?

- A. **Participating Class Members’ Release.** After the Judgment is final and Scheid has fully funded the GSA, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement against the Released Parties. The “Released Parties” means Defendant Scheid Vineyards, Inc. and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Scheid or the Released Parties for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Lawsuit and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators,

successors, and assigns, irrevocably and unconditionally release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the allegations stated in the Operative Complaint and ascertained in the course of the Action.

B. Aggrieved Employees' PAGA Release. All Aggrieved Employees (including all Non-Participating Class Members who qualify as Aggrieved Employees), on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, irrevocably and unconditionally release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the allegations stated in the Operative Complaint, the PAGA Notice and/or ascertained in the course of the Action.

HOW TO GET A SETTLEMENT PAYMENT

9. How Can I Get My Settlement Payment?

You do not need to do anything to receive your Settlement Payment. If the Court approves the Settlement at the scheduled Final Approval Hearing, your Settlement Payment will be mailed to the address this Notice was mailed to, unless you updated your address with the Administrator.

10. What If I Change My Address?

You should immediately notify the Administrator if you move or otherwise change your mailing address. It is your responsibility to keep the Administrator informed of any change in your address, as your Settlement Payment will be mailed to the last known address it has on file for you.

11. How Long Do I Get To Cash My Settlement Payment?

No more than **190 calendar days** after date of mailing. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the "void date"). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization.

12. What If I Lose My Settlement Check

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

13. What My Number Of Workweeks Or Pay Periods Is Wrong?

The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Scheid's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or

Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 22 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs and/or other records. The Administrator will accept Scheid's calculation of Workweeks and/or Pay Periods based on Scheid's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Scheid's Counsel. The Administrator's decision is final.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. Can I Exclude Myself From The Class Portion Settlement?

Yes. If you wish to pursue a separate lawsuit, with a separate attorney at your own expense, or do not want to participate in the class portion of the Settlement for other reasons, you have the option to exclude yourself (that is, "opt out" of the Settlement).

An Excluded Class Member (i.e., Non-Participating Class Members) will not receive an Individual Class Payment, but will preserve his or her rights to personally pursue wage and hour claims against Scheid.

15. Can I Exclude Myself From The PAGA Portion Settlement?

No. You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Scheid based on the PAGA Period facts alleged in the Lawsuit.

16. How Do I Exclude Myself From The Settlement?

To opt out and exclude yourself from the Class Action Settlement, you must provide a signed and dated letter to the Settlement Administrator requesting exclusion. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's full name, present address, telephone number, and a simple statement electing to be excluded from the Settlement.

It must be addressed to the Administrator and **postmarked on or before** [REDACTED]. Requests for exclusion postmarked after this date may be disregarded.

OBJECTING TO THE SETTLEMENT

17. Can I Object If I Do Not Think The Settlement Is Fair?

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low.

Before deciding whether to object, you may wish to see what Plaintiff and Scheid are asking the Court to approve. At least [REDACTED] days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award.

18. How Do I Object To The Settlement?

Only Participating Class Members have the right to object to the Settlement. If you do not think the Settlement is fair, you can object to the Settlement to advise the Court that you do not agree with the Settlement or some part of it.

To object, you must state what your objection(s) are to the Settlement, and include the case name and number: *Chavez v. Scheid Vineyards, Inc.*, Case No. 21CV002126. Be sure to include your full name, current address and telephone number, and the specific reasons you object to the Settlement. It must be addressed to the Administrator and **postmarked on or before** [REDACTED].

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 19 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

THE COURT'S FINAL FAIRNESS HEARING

19. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Final Approval hearing in **Department 14** of the Superior Court of California, County of Monterey, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, CA 93940, on [REDACTED] 2022, at [REDACTED] a.m./p.m.

At this hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will be asked to approve Class Counsel's request for attorneys' fees and litigation costs, the Class Representative's service payment, and the Administrator's fees and

expenses. The Court may reschedule the Final Approval hearing without further notice to Class Members. However, any Class Member who has submitted an objection will be notified by Class Counsel of any rescheduling of the date and time of the Final Approval hearing.

20. Do I Need To Attend The Hearing?

No. Class Counsel will answer any questions the Judge may have. But you are welcome to attend at your own expense. You may also hire and pay your own lawyer to attend.

21. May I Speak At The Hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. You cannot speak at the hearing if you have excluded yourself from the Settlement.

GETTING MORE INFORMATION

22. Who May I Contact If I Have Questions About The Settlement?

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

For more information or if you have specific questions, please contact the attorneys for Plaintiff and the Class, or the Settlement Administrator.

Attorneys for Plaintiff and the Class:

COHELAN KHOURY & SINGER

Isam C. Khoury
605 "C" Street, Suite 200
San Diego, CA 92101
(619) 595-3001

LAW OFFICES OF SAHAG MAJARIAN II

Sahag Majarian, II
18250 Ventura Blvd.
Tarzana, CA 91356
(818) 609-0807

Settlement Administrator:

CPT Group, Inc.

[email address]

[mailing address]

[phone number]

EXHIBIT 2