

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Pooja V. Patel, Esq. (SBN 317891)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
ppatel@lelawfirm.com
WHT1@lelawfirm.com

Attorneys for Plaintiff ULISES HERNANDEZ,
on behalf of himself and others similarly situated

Shannon Marie Jenkins, Esq. (Bar No. 189781)
TREADWAY, LUMSDAINE & DOYLE LLP
2010 Main Street, Suite 1000
Irvine, California 92614
Telephone: (949) 756-0684
Facsimile: (866) 298-9254
Email: sjenkins@tldlaw.com

Attorneys for Defendant GEMSA ENTERPRISES, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ULISES HERNANDEZ, on behalf of himself
and others similarly situated,

Plaintiff,

vs.

GEMSA ENTERPRISES, LLC; and DOES 1 to
100, inclusive,

Defendants.

Case No.: 21STCV28509

CLASS ACTION

*[Assigned for all purposes to the Hon. Stuart
Rice, Dept. 1]*

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

1 This Joint Stipulation of Settlement and Release (the “Joint Stipulation of Settlement”) is
2 made and entered into by and between: (a) Plaintiff ULISES HERNANDEZ (“Plaintiff” or “Class
3 Representative”), on behalf of himself and each member of the “Settlement Class” (as defined
4 below); and (b) Defendant GEMSA ENTERPRISES, LLC (“Defendant”) (collectively with
5 Plaintiff, the “Parties”).

6 **I. BACKGROUND; DENIALS OF LIABILITY**

7 On August 3, 2021, Plaintiff filed a putative wage and hour class action complaint against
8 Defendant for alleged violations of the California Labor Code, currently pending in the Los Angeles
9 County Superior Court as Case No. 21STCV28509, (“Action”).

10 On August 3, 2021, Plaintiff filed a letter with the California Labor Workforce Development
11 Agency (“LWDA”) for alleged violations of the California Labor Code pursuant to the Private
12 Attorneys’ General Act of 2004, Lab. Code § 2698, et seq. (“PAGA”) against Defendant.

13 On October 8, 2021, Plaintiff filed a PAGA action against Defendant for civil penalties
14 associated with Defendant’s alleged violations of the California Labor Code pursuant to PAGA,
15 currently pending in the Los Angeles County Superior Court, as Case No. 21STCV37207, (“PAGA
16 Action”).

17 In the Action, Plaintiff alleges, among other things, claims on behalf of certain California-
18 based, hourly, non-exempt employees who worked for Defendant. More particularly, Plaintiff
19 alleges, among other things, that Defendant had, with respect to him individually and/or other
20 members of the public similarly situated, among other things, failed to pay employees for all hours
21 worked at the minimum wage and/or applicable overtime rates of pay; failed to provide legally
22 compliant meal periods and/or pay meal period premium wages; failed to provide legally compliant
23 rest periods and/or pay rest period premium wages; failed to indemnify employees for employment-
24 related expense; failure to timely pay earned wages during employment; statutory penalties for
25 failure to provide accurate wage statements; waiting time penalties for failure to timely pay
26 employee all earned and unpaid wages due upon separation of employment; applicable civil
27 penalties. In the Action, Plaintiff seeks on behalf of the class monetary relief (including damages,
28 restitution, and penalties) and other relief.

1 On March 3, 2022, the Parties participated in a formal mediation session with well-respected
2 wage and hour mediator Michelle Reinglass, Esq. Although the Parties did not reach a settlement at
3 the time, Ms. Reinglass made a Mediator's Proposal which was accepted by both Parties on March
4 10, 2022. This Joint Stipulation of Settlement, and Release among other things, resolves and settles
5 on behalf of the "Settlement Class" and "PAGA Employees" (defined below) all claims asserted in
6 the operative complaint in the Action. The Parties conducted significant investigation and discovery
7 of the facts and law both before and after the Action was filed. In addition, in advance of the
8 mediation, Defendant produced documents relating to their policies, practices, and procedures
9 regarding paying non-exempt employees for all hours worked, overtime, meal and rest period
10 policies, indemnification policies, payroll and operational policies, and other documents relevant to
11 the causes of action in this Action. As part of Defendant's production, Plaintiff's counsel and expert
12 witness also reviewed and analyzed time records, pay records, and information relating to the size
13 and scope of the Class, as well as data permitting Plaintiff to understand the number of workweeks
14 in the Class and PAGA Periods. The Parties agree that the above-described investigation and
15 evaluation, as well as the information exchanged during the settlement negotiations, are more than
16 sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a
17 fair and equitable basis.

18 In entering into this Settlement, Defendant does not admit, and specifically denies, on behalf
19 of itself and each of the "Released Parties" as defined below, each and all such claims whether
20 asserted or to be asserted by Plaintiff individually or on behalf of any putative class or represented
21 group. Defendant, on behalf of itself and each of the Released Parties denies that any Released Party
22 is liable in any way to Plaintiff or any putative member of any class or any represented group; denies
23 that Plaintiff or any putative member of any class or any represented group is entitled to any
24 monetary compensation or payment of any kind (or any other form of relief) under California,
25 federal, or any other law; and denies that Plaintiff or any putative member of any class or any
26 represented group are, were, or could have been harmed by any conduct, acts, or omissions by
27 Defendant or any Released Party. Defendant also denies that any of the settled claims could ever
28 properly be certified as a class in any contested certification proceedings or could proceed as a

1 representative action. Except as necessary in a proceeding to enforce the terms of this Settlement,
2 this Settlement Agreement and its terms and provisions will not be offered or received as evidence
3 in any action or proceeding to establish any liability or admission on the part of Defendant or to
4 establish the existence of any condition constituting a violation of, or a non-compliance with,
5 federal, state, local or other applicable law. Defendant reserves the right to contest any issues
6 relating to class certification, manageability and liability if the Settlement is not approved.

7 Defendant has concluded that further litigation would be uncertain, protracted, and
8 expensive, and therefore desires to settle all the claims being released in order to limit further cost,
9 inconvenience, uncertainty, and distraction.

10 **II. DEFINITIONS**

11 1. "Class Counsel" refers to Joseph Lavi, Vincent Granberry, and Pooja V Patel of Lavi
12 & Ebrahimian, LLP, 8889 W. Olympic Blvd., Suite 200, Beverly Hills, California 90211.

13 2. "Class Notice" means the notice of this Settlement, substantially in the form of
14 **Exhibit A**, to be sent to Settlement Class Members to notify them of this Settlement and their right
15 to Opt Out. The Class Notice will be sent to the Settlement Class Members in both English and
16 Spanish.

17 3. "Class Period" means the time period from and including August 3, 2017, through
18 August 31, 2022.

19 4. "Defendant" means GEMSA ENTERPRISES, LLC

20 5. "Effective Date" means the date on which the Superior Court's judgment approving
21 this Joint Stipulation of Settlement becomes "Final."

22 6. "Final" means the following with respect to the Superior Court's Final Class
23 Judgment approving this Joint Stipulation of Settlement:

24 A. The 65th calendar day after notice of entry of the Final Class Judgment, plus
25 any extension of the time to appeal resulting from the filing of a motion that extends the deadline to
26 appeal (assuming no appeal, writ or other request for appellate review is filed within the foregoing
27 time period).

1 B. If any appeal, writ, or other request for appellate review is filed within the
2 foregoing time period, the date when that appeal, writ, or request for appellate review is finally ruled
3 upon, denied, or dismissed, and no other appeal, writ or appellate review is possible.

4 7. "Final Class Judgment" means the judgment to be entered by the Superior Court
5 approving this Joint Stipulation of Settlement without material changes, confirming the releases of
6 claims by Participating Class Members, and finally resolving the Action.

7 8. "Individual Settlement Payment" means the amount to be allocated under this
8 Settlement to individual Settlement Class Members as calculated below.

9 9. "Maximum Settlement Amount" means the maximum amount to be paid under this
10 Settlement which is Four Hundred and Eighty Thousand Dollars and No Cents (\$480,000.00) which
11 includes all settlement payments to Participating Class Members, Attorneys' Fees and Costs,
12 Enhancement Payment, allocation to penalties pursuant to PAGA, and Settlement Administration
13 Costs. The Maximum Settlement Amount does not include the employer's share of taxes which
14 Defendant has agreed to pay separately and in addition to Maximum Settlement Amount. Defendant
15 shall have no other liability.

16 10. "Net Settlement Amount" means the Maximum Settlement Amount less the
17 following amounts: (1) Attorneys' Fees and Costs to Class Counsel; (2) Enhancement Payment to
18 Plaintiff; (3) Settlement Administration Costs to the Settlement Administrator; and (4) PAGA
19 Settlement Amount.

20 11. "Opt Out(s)" means any Settlement Class Member who submits a complete and
21 timely request to be excluded from this Settlement, by submitting a Request for Exclusion under the
22 procedures set forth below.

23 12. "PAGA Employees" means any means any and all current and former hourly non-
24 exempt employees of Defendants in California during PAGA Period.

25 13. "PAGA Period" means August 3, 2020, through August 31, 2022.

26 14. "Participating Class Member" means any Settlement Class Member who does not
27 submit a timely Request for Exclusion under the procedures set forth below.

28 15. "Parties" means Defendant, Plaintiff, and the Settlement Class.

1 16. “Plaintiff” means Plaintiff ULISES HERNANDEZ, who is the named plaintiff in the
2 action.

3 17. “Released Parties” means: (a) Defendant GEMSA ENTERPRISES, LLC, and each
4 and all past or present partners, parents, subsidiaries, or affiliates (regardless whether such partners,
5 parents, subsidiaries, or affiliates are individuals, corporations, partnerships, limited partnerships,
6 limited liability companies, or other forms of entity) of Defendants; (b) each and all of the
7 predecessor or successor entities of any of those entities identified in subparagraph (a); (c) any other
8 individuals or entities of any kind, including but not limited to any payroll companies, which have
9 been or could be alleged to be in any manner responsible (whether on an alter ego, joint employer,
10 integrated enterprise, or any other theory) for any violations described in the releases below and
11 occurring as a result of employment; and (d) all past and present directors, officers, representatives,
12 insurers, agents, shareholders, partners, members, lawyers, and employees of any of the individuals
13 or entities identified in subparagraphs (a), (b), or (c).

14 18. “Request for Exclusion” means a Settlement Class Member’s request, in writing, for
15 exclusion from the Settlement.

16 19. “Response Deadline” means the last date for Settlement Class Members to postmark,
17 for return to the Settlement Administrator, Requests for Exclusion or Objections. The Response
18 Deadline shall be forty-five (45) days after the Settlement Administrator has postmarked the Class
19 Notice for mailing to Settlement Class Members, subject to adjustment in the case of re-mailings,
20 as specified in Section XV below.

21 20. “Settlement” means the settlement reflected in and to be effectuated through this
22 Joint Stipulation of Settlement.

23 21. “Settlement Class” means any and all current and former hourly non-exempt
24 employees of Defendant in California during Class Period.

25 22. “Settlement Class Members” means all members of the Settlement Class, including
26 any Opt Outs.

27 23. “Settlement Administrator” refers to Phoenix Class Action Administration Solutions,
28 an independent third party agreed to by the Parties and paid out of the Maximum Settlement

1 Amount, as described below, to perform the notice, settlement administration, and distribution
2 functions further described in this Joint Stipulation of Settlement.

3 24. "Superior Court" means the Los Angeles County Superior Court.

4 **III. THE SETTLEMENT CLASS**

5 For purposes of this Joint Stipulation of Class Action Settlement and Release only, the
6 Parties agree to seek, under the procedures described below, the Superior Court's approval of
7 certification of the following "Settlement Class:" any and all current and former hourly non-exempt
8 employees of Defendant in California during the Class Period. The Settlement Class shall include
9 any heirs, successors, or assigns or purported assigns of the above-described persons.

10 **IV. MAXIMUM SETTLEMENT AMOUNT**

11 The maximum amount to be paid under this Settlement is Four Hundred and Eighty
12 Thousand Dollars and No Cents (\$480,000.00) (i.e., Maximum Settlement Amount).

13 This Settlement is based on 43 Settlement Class Members during the Class Period. Should
14 the number of such Settlement Class Members as of the end of the Class Period exceed such stated
15 number by more than 10% (i.e., there are more than 47.3 Settlement Class Members), Defendant
16 shall increase the Maximum Settlement Amount by an equal percentage above 10% or Defendant
17 can elect to end the Class Period at the date when there were 47 Settlement Class Members.

18 The Maximum Settlement Amount shall be used to pay all of Class Counsel's attorneys'
19 fees and costs, all costs of settlement administration, the Enhancement Payment paid to Plaintiff, all
20 payments to the California Labor Workforce and Development Agency, all settlement payments to
21 Participating Class Members, and the employee's share of all "Wage Withholdings" (as defined
22 below) on such payments. No Released Party shall be required to pay anything above or beyond the
23 Maximum Settlement Amount, under any circumstance, as a result of this Settlement, except
24 Defendant's obligation to pay the employer's share of taxes with respect to Participating Class
25 Members' Individual Settlement Payments.

26 ///

27 ///

28 ///

V. PAYMENT TO PLAINTIFF OF ENHANCEMENT PAYMENTS AND TO PLAINTIFF FOR A GENERAL RELEASE

Plaintiff will apply to the Superior Court for approval of an Enhancement Payment in the amount of no more than Nine Thousand Dollars and No Cents (\$9,000.00) ("Enhancement Payment") which will be paid to Plaintiff. Defendant will not oppose Plaintiff's request. The Settlement Administrator will pay Plaintiff (from the Maximum Settlement Amount) the Enhancement Payment awarded by the Superior Court. Plaintiff understands and agrees that the Superior Court may in its discretion award a lesser amount, and Plaintiff agrees that he will accept whatever amount, if any, the Superior Court awards. Any such reduction shall constitute part of the amount to be distributed pursuant to Section IX as described below.

Plaintiff and Defendant agree that the Enhancement Payment awarded to Plaintiff is not a wage payment. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for his Enhancement Payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his Enhancement Payment. The Enhancement Payment is in addition to the Individual Settlement Payment to be paid to Plaintiff. The Enhancement Payment represents payment for the time incurred and services rendered by Plaintiff on behalf of the Settlement Class in obtaining this Settlement.

VI. ATTORNEYS' FEES AND COSTS

Class Counsel will apply to the Superior Court for approval of reasonable attorneys' fees incurred for representing Plaintiff and the Settlement Class in the Action in an amount not to exceed one-third of the Maximum Settlement Amount, or a maximum total of One Hundred and Sixty Thousand Dollars and Zero Cents (\$160,000.00) ("Attorneys' Fees"). Class Counsel will also apply to the Superior Court for an award of actual costs in an amount of not more than Twenty Thousand Dollars (\$20,000.00) (together, "Attorneys' Fees and Costs"). Defendant will not oppose Class Counsel's request for an award of Attorneys' Fees and Costs up to the specified amounts, and the Settlement Administrator will pay Class Counsel (from the Maximum Settlement Amount) the fees and costs awarded by the Superior Court up to the specified amounts. In the event that the escalator clause described in section IV herein is triggered and the Maximum Settlement Amount is increased,

1 Class Counsel may, in its discretion, increase its Attorneys' Fees in order to remain one-third of the
2 Maximum Settlement Amount.

3 Class Counsel and Plaintiff understand and agree that the Superior Court may in its
4 discretion award lesser amounts in Attorneys' Fees and Costs than requested by Class Counsel. If
5 Class Counsel receive Attorneys' Fees or Costs less than the specified amounts, any such reduction
6 shall not revert to Defendant but shall instead constitute part of the amount to be distributed pursuant
7 to Section IX below.

8 The amounts so awarded shall be for and in complete satisfaction of all attorneys' fees and
9 costs incurred to date by Plaintiff and/or Class Counsel on behalf of Plaintiff and the Settlement
10 Class, and of all such future fees and costs including, but not limited to, fees and costs incurred in
11 documenting this Settlement, securing Superior Court approval of this Settlement, monitoring this
12 Settlement, reviewing and participating in the settlement administration process, and obtaining the
13 Final Class Judgment.

14 The Settlement Administrator will give Class Counsel an IRS Form 1099 for the Attorneys'
15 Fees and Costs awarded. Class Counsel understand and agree that they shall be solely responsible
16 for any and all taxes and/or penalties arising from payment of the costs and attorneys' fees provided
17 herein. Not later than the Effective Date, Class Counsel shall provide a fully and properly executed
18 IRS Form W-9 for purposes of the payments which the Settlement Administrator will electronically
19 wire to Class Counsel.

20 **VII. SETTLEMENT ADMINISTRATION AND EXPENSES**

21 The Parties have agreed to use Phoenix Class Action Administration Solutions to administer
22 the settlement and have allocated Seven Thousand Dollars (\$7,000.00) to reimbursement of costs
23 for administration which will be paid from the Maximum Settlement Amount ("Settlement
24 Administration Costs"). If the allocated Settlement Administration Costs exceed the actual costs
25 sought by the Settlement Administrator, the excess will remain part of the Net Settlement Amount.
26 The Settlement Administrator shall do the following:

- 27 a) Send the Class Notice to Settlement Class Members in English and Spanish;
- 28

- 1 b) Establish a website where the Class Notice will be maintained and copies of the
2 relevant documents will be available to view, including the Final Class Judgment;
- 3 c) Prepare and issue the checks to Participating Class Members and PAGA Employees
4 for their Individual Settlement and PAGA Payments; Class Counsel for Attorneys'
5 Fees and Costs; Plaintiff for his Enhancement Payment; and the California Labor
6 Workforce Development Agency ("LWDA");
- 7 d) Establish a Qualified Settlement Fund, pursuant to Treasury Regulations section
8 1.468B for purposes of distributing these amounts;
- 9 e) File all required tax returns for the Qualified Settlement Fund;
- 10 f) Calculate, and then remit to appropriate taxing and other governmental authorities,
11 all amounts to be deducted or paid on account of the Individual Settlement Payments,
12 including employee's share of "Wage Withholdings," as more specifically described
13 and defined below;
- 14 g) Provide appropriate indemnities against mistakes or inaccuracies in such tasks and
15 against any misuse or breach of confidentiality for Settlement Class Members' social
16 security numbers, telephone numbers, addresses, or other private information;
- 17 h) Perform all other tasks necessary to administer the Settlement.

18 All disputes relating to the Settlement Administrator's performance of its duties shall be
19 referred to the Superior Court for a final and binding determination, not subject to further review or
20 appeal of any kind.

21 **VIII. PAYMENTS TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY**

22 The Parties have agreed to pay a certain sum to the California Labor and Workforce
23 Development Agency ("LWDA") in connection with the Labor Code Private Attorneys General Act
24 of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties have agreed that a total of Thirty
25 Thousand Dollars and No Cents (\$30,000.00) of the Maximum Settlement Amount will be allocated
26 to the resolution of Class Members' claims arising under PAGA for the PAGA Period ("PAGA
27 Settlement Amount"). Pursuant to PAGA, Seventy-Five Percent (75%), or Twenty-Two Thousand
28 and Five Hundred Dollars and No Cents (\$22,500.00), of the PAGA Settlement Amount will be

1 paid to the LWDA ("LWDA Payment"), and Twenty-Five Percent (25%), or Seven Thousand and
2 Five Hundred Dollars and No Cents (\$7,500.00), of the PAGA Settlement Amount shall be
3 distributed to PAGA Employees as specified below. This Seven Thousand and Five Hundred
4 Dollars and No Cents (\$7,500.00) shall be referred to as the "PAGA Employees Portion."

5 The Settlement Administrator will pay to the LWDA, in accordance with California Labor
6 Code section 2699(i), the amount Twenty-Two Thousand and Five Hundred Dollars and No Cents
7 (\$22,500.00). The Settlement Administrator will advise Class Counsel when this payment is made.

8 **IX. PAYMENTS TO PARTICIPATING CLASS MEMBERS**

9 1. After the Enhancement Payment, Attorneys' Fees and Costs, Settlement
10 Administration Costs, and PAGA Settlement Amount (as specified above) have been satisfied from
11 the Maximum Settlement Amount, the remainder (i.e., Net Settlement Amount) shall be available
12 to satisfy the employee's share of Wage Withholdings and to pay Settlement Class Members who
13 did not Opt Out (i.e., Participating Class Members) for their share of the Net Settlement Amount
14 (i.e., their Individual Settlement Payments). The PAGA Settlement Amount will be distributed (as
15 described above) 75% to the LWDA (i.e., LWDA Payment) and the remaining 25% shall be
16 distributed to PAGA Employees on a *pro rata* basis.

17 2. Under this Joint Stipulation of Settlement, each Settlement Class Member shall be
18 allocated an Individual Settlement Payment based on the number of weeks each Settlement Class
19 Member worked for Defendant as an hourly non-exempt employee in California during the Class
20 Period ("Workweeks"). The Individual Settlement Payment for each Settlement Class Member who
21 does not Opt Out and is deemed a Participating Class Member shall be calculated as follows: (a) the
22 number of Workweeks of each Participating Class Member worked as an hourly non-exempt
23 employee for Defendant in California during the Class Period; divided by (b) the aggregate number
24 of Workweeks for all Participating Class Members as calculated under subparagraph (a); and then
25 multiplied by (c) the Net Settlement Amount. The Workweeks worked shall be calculated using
26 Defendant's payroll and timekeeping records. Because PAGA Employees cannot opt out of the
27 PAGA claims, each PAGA Employee, whether or not a Participating Class Member, shall also
28 receive his or her share of the PAGA Employees Portion ("Individual PAGA Payment") calculated

1 as follows: (a) the number pay periods each PAGA Employee worked as an hourly non-exempt
2 employee for Defendant in California during the PAGA Period; divided by (b) the aggregate number
3 of pay periods worked by all PAGA Employees during the PAGA Period; and then multiplied by
4 (c) the PAGA Employees Portion.

5 3. The Parties agree that the Individual Settlement Payments shall constitute 20%
6 wages (“wage portion”), 40% penalties, and 40% interest (“non-wage portion”). Each Individual
7 PAGA Payment shall be treated as 100% penalties. The Settlement Administrator shall calculate
8 and deduct from the wage portion of each Participating Class Member’s Individual Settlement
9 Payment the employee’s share of required state, federal, and local tax, and other wage obligations
10 or withholdings. These shall include, without limitation, all federal, state, and local employment
11 taxes (such as Social Security Taxes, Federal Unemployment Taxes, and California Unemployment
12 and Training Taxes) and all state and federal income taxes (collectively, the “Wage Withholdings”).
13 The Settlement Administrator shall remit these amounts to the appropriate authorities.

14 4. The Settlement Administrator shall pay to each Participating Class Member his or
15 her share (after any Wage Withholdings) of the Individual Settlement Payment, in the manner and
16 on the schedule set forth below, and shall make remittances of Wage Withholdings to the required
17 authorities as and when required.

18 5. The Settlement Administrator shall issue to each Participating Class Member an IRS
19 Form W-2 to report the wage portion of his or her Individual Settlement Payment. The Settlement
20 Administrator shall issue to each Participating Class Member and PAGA Employee an IRS Form
21 1099 for the non-wage portion of his or her Individual Settlement Payment and/or Individual PAGA
22 Payment (if applicable).

23 6. Defendant, Defense counsel, Plaintiff, and Class Counsel make no representation as
24 to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Settlement
25 Class Members are not relying on any statement, representation, or calculation by Defendant,
26 Defense counsel, Plaintiff, Class Counsel, or the Settlement Administrator in this regard. Plaintiff
27 and Settlement Class Members understand and agree that they will be solely responsible for the
28 payment of any taxes and penalties assessed on the payments described herein. Each of the

1 Participating Class Members and PAGA Employees agrees to indemnify the Released Parties for
2 any tax obligations arising out of payments to him or her of any portion of an Individual Settlement
3 Payment or Individual PAGA Payment.

4 7. Settlement Class Members shall not, on account of receiving any Individual
5 Settlement Payment or Individual PAGA Payment, be entitled to any other or additional
6 compensation, benefits, contributions, or matching employer funding of any kind under any
7 agreement or plan governing benefits or compensation (such as but not limited to any agreements
8 or plans for incentives, stock options, retirement, deferred compensation) regardless of any contrary
9 language or provisions in any such agreement or plan. The Individual Settlement Payment and/or
10 Individual PAGA Payment shall be the sole compensation and benefit to the Participating Class
11 Members and PAGA Employees under this Settlement Agreement.

12 8. Participating Class Members and PAGA Employees will have one hundred eighty
13 (180) calendar days from the date of issuance of the check to cash or otherwise deposit their
14 check. For any check not cashed after 180 calendar days, the Settlement Administrator shall cancel
15 the check and remit the funds to the California State Controller's Office, Unclaimed Property
16 Division in the name of the Participating Class Member who failed to cash their check. The
17 Settlement Administrator shall inform the Parties regarding the status of any uncashed checks at the
18 conclusion of the 180 calendar day check cashing period, including the amount at issue.

19 **X. TIMING OF PAYMENT OBLIGATIONS**

20 Defendant shall electronically wire the Maximum Settlement Amount and an amount
21 sufficient to pay the employer's share of taxes on the wage portion of the Individual Settlement
22 Payments to the Settlement Administrator within five (5) business days after the Effective Date.

23 The Settlement Administrator shall place the funds in an interest-bearing account, and any
24 interest earned shall be paid to the Individual Settlement Payments for Participating Class Members.

25 The Settlement Administrator shall make each of the payments set forth above (including,
26 Individual Settlement Payments to Participating Class Members, Individual PAGA Payments to
27 PAGA Employees, Court-approved Attorneys' Fees and Costs to Class Counsel, the Court-
28 approved Enhancement Payment to Plaintiff, the LWDA Payment to the LWDA, and the Court-

1 approved Settlement Administration Costs to itself) within ten (10) business days after the Effective
2 Date. The Settlement Administrator shall mail payments to the LWDA and simultaneously advise
3 Class Counsel regarding their tender of the payment.

4 **XI. NO OTHER PAYMENTS**

5 Except for the payments and obligations provided above, all of which shall be satisfied from
6 the Maximum Settlement Amount, no Released Party shall have any obligation to make any
7 payment to any Plaintiff, to the Settlement Class, their counsel or to any other person or entity
8 because of the Action or this Joint Stipulation of Settlement. Except as set forth above, the Parties
9 shall bear all their own costs and attorneys' fees in connection with this Joint Stipulation of
10 Settlement and the Action.

11 **XII. RELEASES BY PARTICIPATING CLASS MEMBERS**

12 1. As of the Effective Date and full funding of the Maximum Settlement Amount by
13 Defendant to the Settlement Administrator, each Participating Class Member hereby fully, finally,
14 and forever releases and discharges each and every one of the Released Parties from all claims,
15 demands, rights, liabilities, and causes of action: (a) arising in whole or in part, during the Class
16 Period, for any of the following: failure to pay employees for all hours worked at the minimum wage
17 and/or applicable overtime rates of pay; failure to provide legally complaint meal periods and/or
18 pay meal period premium wages; failure to provide legally complaint rest periods and/or pay rest
19 period premium wages; failure to pay accrued, unused vacation pay/paid time off ("PTO"); failure
20 to timely pay employees after termination or resignation of employment; applicable civil penalties;
21 or any alleged or actual failure to pay any interest or penalties owed as a result of any of the
22 foregoing; or (b) in any manner arising out of any of the other facts or legal theories alleged or
23 asserted in the Action (collectively, the "Released Class Claims"). These claims include all claims
24 that arose during the class period under Labor Code section 201, 202, 203, 204, 226, 226.7, 2802,
25 510, 512, 1194, 1197, as well as the IWC Wage Order, and section 17200 et. seq of. the California
26 Business and Professions Code, based on the foregoing, as well as any civil penalty claims
27 predicated on the claims alleged in the LWDA letter and/or Complaint under PAGA, Labor Code
28 2699 et seq. This release shall become null and void in the event that Defendants fail to

1 electronically wire the Maximum Settlement Amount and an amount sufficient to pay the
2 employer's share of taxes on the wage portion of the Individual Settlement Payments to the
3 Settlement Administrator within five (5) business days after the Effective Date as required by
4 Section X above.

5 2. As of the Effective Date and full funding of the Maximum Settlement Amount by
6 Defendant to the Settlement Administrator, each PAGA Employee and the State of California
7 hereby fully, finally, and forever releases and discharges each and every one of the Released Parties
8 from all claims, demands, rights, liabilities, and causes of action: (a) arising in whole or in part,
9 during the PAGA Period, for any of the following: any alleged or actual unfair business practices or
10 any alleged or actual violations of the Private Attorneys General Act, Labor Code section 2699 *et*
11 *seq.* ("PAGA") which derive from the foregoing Released Class Claims; and (b) all claims for
12 PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged
13 in the operative complaint in this Action or the August 3, 2021, letter to the LWDA arising during
14 the PAGA Period (collectively, the "Released PAGA Claims") (together the Released Class Claims
15 and Released PAGA Claims are the "Released Claims"). This release shall become null and void in
16 the event that Defendants fail to electronically wire the Maximum Settlement Amount and an
17 amount sufficient to pay the employer's share of taxes on the wage portion of the Individual
18 Settlement Payments to the Settlement Administrator within five (5) business days after the
19 Effective Date as required by Section X above.

20 3. The Released Claims include without limitation, but in each case only to the extent
21 described in the preceding paragraph, claims: (a) arising under or out of any unfair competition laws
22 as defined in California Business and Professions Code Section 17200 *et seq.*; and (b) for declaratory
23 or injunctive relief or for monetary compensation, whether in the form of wages, damages,
24 liquidated damages, penalties, restitution, costs, attorneys' fees, interest, or otherwise.

25 **XIII. PLAINTIFF'S FURTHER RELEASE**

26 In partial consideration for the Enhancement Payment and other benefits under this Joint
27 Stipulation of Settlement, Plaintiff provides the following additional releases: as of the Effective
28 Date, Plaintiff shall fully, finally, and forever release and discharge each and every one of the

Released Parties from all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, whether known or unknown, whether sounding in tort, in contract, in law, in equity or otherwise, and including but not limited to all claims for violation of any local, state, or federal statute, rule, or regulation, which plaintiff now has, owns, or holds, or claims to have, own, or hold, or which he ever had, owned or held, whether known or unknown, suspected or unsuspected, at any time prior to the date he executes this Joint Stipulation of Settlement (collectively "Plaintiff's Released Claims"). Plaintiff's Released Claims include, without limitation, any and all claims under Title VII of the Civil Rights Act of 1964, any claims for fraud, promises without the intent to perform, intentional or negligent misrepresentation, breach of contract, breach of the implied covenant of good faith and fair dealing, wrongful termination in violation of public policy, retaliatory discharge, violations of the California Labor Code, violations of the Fair Labor Standards Act, accounting, intentional or negligent infliction of emotional distress, violations of California Business and Professions Code section 17200 *et seq.*, violations of the California Fair Employment and Housing Act and any and all other claims arising out of tort, contract, statute or other authority.

With respect to Plaintiff's Released Claims, Plaintiff stipulates and agrees that, upon the Effective Date, he shall be deemed to have expressly waived and relinquished to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code or any other similar provision under federal, state, or local law. Section 1542 provides:

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

Plaintiff may hereafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of Plaintiff's Released Claims, but Plaintiff, upon the Effective Date, shall be deemed to have fully, finally, and forever settled and released any and all of Plaintiffs' Released Claims, known or unknown, suspected or unsuspected,

1 contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore
2 have existed, upon any theory of law or equity now existing or coming into existence in the future,
3 including, without limitation, conduct which is negligent, intentional, with or without malice, or a
4 breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such
5 different or additional facts.

6 Plaintiff represents, covenants, and warrants that he is the owner of all of Plaintiff's Released
7 Claims, and that he has not directly or indirectly assigned, transferred, or encumbered, or purported
8 to assign, transfer or encumber to any person or entity, whether by operation of law or otherwise,
9 any portion of Plaintiff's Released Claims.

10 Plaintiff shall not be permitted to seek any further payment or any personal relief of any
11 kind, including any payment for damages, wages, fees, costs, penalties, or interest, other than the
12 consideration he is receiving under this Joint Stipulation of Settlement, on account of Plaintiff's
13 Released Claims. Exempted from this release shall be the amount Plaintiff is paid as the
14 Enhancement Payment and as an Individual Settlement Payment and Individual PAGA Payment.
15 This release shall become null and void in the event that Defendants fail to electronically wire the
16 Maximum Settlement Amount and an amount sufficient to pay the employer's share of taxes on the
17 wage portion of the Individual Settlement Payments to the Settlement Administrator within five (5)
18 business days after the Effective Date as required by Section X above.

19 **XIV. PROCEDURE FOR OBTAINING PRELIMINARY APPROVAL OF JOINT**
20 **STIPULATION OF SETTLEMENT**

21 The Parties agree to work cooperatively in order to obtain preliminary and final approval of
22 the Settlement. The Parties shall cooperate in limiting the Superior Court proceedings to those
23 necessary for such preliminary and final approval. The Parties agree to take all steps reasonably
24 necessary to secure both preliminary and final approval of the Settlement.

25 ///

26 ///

27 ///

28 ///

XV. PROCEDURES FOR NOTICE, SUBMITTING REQUESTS FOR EXCLUSION, OBJECTIONS, AND FINAL SETTLEMENT APPROVAL

A. Class Notices and Requests for Exclusion

1. Within fifteen (15) calendar days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator the name, last known address, and Social Security number of each Settlement Class Member, along their dates of employment and any other information needed to calculate Individual Settlement Payments and Individual PAGA Payments (“Class Data”). The Settlement Administrator will keep this information confidential and use it only for the purposes described herein.

2. Within fifteen (15) calendar days of receipt of the Class Data from Defendant, the Settlement Administrator shall mail the Class Notice to all Settlement Class Members via first-class U.S. mail. Prior to mailing the Class Notice, the Settlement Administrator shall run a check of the addresses in the Class Data against the United States Postal Service National Change of Address Database (“NCOA”) to update for any reported address changes. If any Class Notice is returned as undeliverable without a forwarding address, the Settlement Administrator shall take appropriate steps to identify a current proper address for that Settlement Class Member, including conducting a “standard search,” also known as a “skip trace” or “credit header” search. The Settlement Administrator shall then re-mail the Class Notice to the updated address. If a Class Notice is returned to the Settlement Administrator as undeliverable with a forwarding address, the Settlement Administrator will promptly forward the Class Notice to the address.

3. The Class Notice shall provide that any Settlement Class Member may dispute the number of workweeks credited to them in their Class Notice. If any Settlement Class Member disputes their workweeks information used to calculate the Individual Settlement Payment or Individual PAGA Payment, the Settlement Class Member may state the basis of his or her disagreement and submit documentation supporting the Settlement Class Member’s position, by the Response Deadline. The Settlement Administrator shall notify Class Counsel and Defendant’s counsel of any dispute so raised. The Settlement Administrator will review Defendant’s records and consult Defendant’s counsel and Class Counsel in order to determine if there is a discrepancy. The

1 Settlement Administrator will decide the dispute using Defendant's records and the decision of the
2 Settlement Administrator shall be final.

3 4. Along with the Class Notice, each Settlement Class Member shall also receive
4 instructions on what needs to be stated in the Request for Exclusion if the Settlement Class Member
5 wants to be excluded from this Settlement. If a Settlement Class Member wishes to Opt Out from
6 this Settlement, and from the release of claims pursuant to this Settlement, he or she shall submit an
7 "Opt-Out Letter" or "Request for Exclusion" directly to the Settlement Administrator that must be
8 mailed or faxed and postmarked or fax-stamped on or before the Response Deadline, or within
9 fifteen (15) calendar days after the postmark of a Class Notice re-mailed to a corrected address for
10 that Settlement Class Member, whichever is later. The written Request for Exclusion shall: (1) make
11 the following statement or a similar statement: "I wish to exclude myself from the settlement reached
12 in the matter of *Hernandez v. Gemsa*. I understand that, by excluding myself, I will not receive any
13 money (other than the PAGA Settlement Amount) from the settlement reached in this matter";
14 (2) contain the name, address, and the last four digits of the Social Security number of the person
15 requesting exclusion; (3) be signed by the Settlement Class Member; and (4) be postmarked or fax
16 stamped by the Response Deadline and returned to the Settlement Administrator at the specified
17 address or fax telephone number stated in the Class Notice. However, the Opt-Out Letter or Request
18 for Exclusion will be valid unless it is not timely submitted, is not signed by the Settlement Class
19 Member, or does not contain the name and address of the Settlement Class Member. The date of the
20 postmark on the return mailing envelope or fax stamp on the Request for Exclusion shall be the
21 exclusive means used to determine whether the Opt-Out Letter or Request for Exclusion was timely
22 submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class
23 will not be entitled to any recovery under the Settlement, will not be bound by the terms of the
24 Settlement, and will not have any right to object, appeal, or comment thereon, except he or she shall
25 receive his or her PAGA share of the settlement if he or she is a PAGA Employee (since he or she
26 cannot opt out of the PAGA settlement). Settlement Class Members who fail to submit a valid and
27 timely written Request for Exclusion on or before the Response Deadline shall be bound by all the
28 terms of the Settlement and any Final Class Judgment.

1 5. The Settlement Administrator shall maintain a list of persons who have excluded
2 themselves and shall include the names of the Settlement Class Members who Opt-Out in his/her
3 declaration in support of final approval. The Settlement Administrator shall retain the originals of
4 all Requests for Exclusion letters (including the envelopes with the postmarks) received, and shall
5 make copies or the originals available to Defendant's counsel or Class Counsel upon request.

6 **B. Procedure for Obtaining Final Superior Court Approval of Settlement;**
7 **Objections**

8 1. The Class Notice shall provide that any Participating Class Member who wishes to
9 object to this Joint Stipulation of Settlement must mail to the Settlement Administrator by first class
10 mail a written statement objecting to this Joint Stipulation of Settlement setting forth the legal and
11 factual grounds for any objections ("Objection"), or if no written objection is submitted, the
12 Participating Class Member may still appear at the final settlement hearing to object. Such written
13 objections should be mailed and postmarked or fax-stamped on or before the Response Deadline, or
14 within fifteen (15) calendar days after the postmark of a Class Notice re-mailed to a corrected
15 address for that Settlement Class Member, whichever is later. The written Objection shall: (1)
16 contain the name, address, and the last four digits of the Social Security number of the person
17 objecting; (2) be signed by the Participating Class Member; (3) state the grounds on which the
18 Participating Class Member is objecting as well as any documents or evidence supporting his or her
19 objection(s); and (4) be postmarked or fax stamped by the Response Deadline and returned to the
20 Settlement Administrator at the specified address or fax telephone number stated in the Class Notice.
21 Upon receipt of any Objections, the Settlement Administrator will forward copies of said Objections
22 to Class Counsel and Defense counsel. To the extent that the Participating Class Member is
23 represented by counsel, his/her attorney shall file with the Superior Court a notice of appearance
24 providing the attorney's contact information.

25 2. Approximately thirty (30) calendar days after the Response Deadline or as
26 determined by the Superior Court, the Superior Court shall conduct a final settlement hearing to
27 determine whether to finally approve this Joint Stipulation of Settlement and to determine Class
28 Counsel's request for Attorneys' Fees and Costs, Enhancement Payment to Plaintiff, and the cost

1 for administering the Settlement to the Settlement Administrator. Within ten (10) calendar days after
2 the Response Deadline, the Settlement Administrator shall make a declaration regarding the
3 administration of the Settlement, of all Opt Outs, and of any written objections described above.
4 Class Counsel shall prepare a memorandum of points and authorities in support of this Settlement
5 and request for Attorneys' Fees and Costs, Enhancement Payment, and administration costs, and
6 shall file them with the Superior Court, for purposes of the final settlement hearing.

7 3. After entry of the Final Class Judgment, the Superior Court shall have continuing
8 jurisdiction over the Action solely for purposes of addressing: (i) settlement administration matters;
9 and (ii) such post-Final Class Judgment matters as may be appropriate.

10 **XVI. TERMINATION OF SETTLEMENT**

11 In the event: (i) the Superior Court does not enter the Preliminary Approval Order without
12 material change; (ii) the Superior Court does not finally approve this Joint Stipulation of Settlement
13 without material change; (iii) the Superior Court does not enter the Final Class Judgment without
14 material change; (iv) the Final Class Judgment is materially modified or reversed upon review by a
15 higher court; (v) ten (10) or more Settlement Class members request exclusion from the Settlement;
16 or (vi) this Settlement does not become final for any other reason (except as provided below),
17 Plaintiff or Defendant may, in their sole and absolute discretion, terminate this Joint Stipulation of
18 Settlement. In the case of such a termination, this Joint Stipulation of Settlement shall be null and
19 void as if it had never been executed, the Parties shall be returned to their respective statuses as of
20 the date and time immediately prior to the execution of this Joint Stipulation of Settlement, and
21 Plaintiff and Defendant shall proceed with the Action in all respects as if this Joint Stipulation of
22 Settlement had not been executed. Prior to either Party exercising an option to terminate the
23 Settlement, the Parties agrees to meet and confer in good faith in an effort to resolve the issue(s) and
24 proceed in a manner most likely to result in approval of the Settlement. As provided above, the
25 Superior Court's failure to award the amount of costs, attorneys' fees, or Enhancement Payment
26 sought by Class Counsel or by Plaintiff shall not be a material change or entitle Plaintiff or Class
27 Counsel to terminate this Settlement.

28 ///

1 **XVII. MISCELLANEOUS**

2 1. The descriptive headings of any paragraphs or sections of this Joint Stipulation of
3 Settlement are inserted for convenience of reference only and do not constitute a part of this Joint
4 Stipulation of Settlement.

5 2. The Parties agree to hold in abeyance all proceedings in the Action, except such
6 proceedings necessary to implement and complete this Settlement, pending final approval of this
7 Joint Stipulation of Settlement. In the event an appeal is filed from the Final Class Judgment, or any
8 other appellate review is sought prior to the Effective Date, administration of this Joint Stipulation
9 of Settlement shall be stayed pending final resolution of the appeal or other appellate review.

10 3. No waiver of any term or provision of this Joint Stipulation of Settlement shall be
11 binding unless in writing and signed by the Party waiving the breach. This Joint Stipulation of
12 Settlement may be amended or modified only by a written instrument signed by counsel for all
13 Parties or their successors-in-interest.

14 4. This Joint Stipulation of Settlement constitutes the entire agreement among the
15 Parties with respect to the subject matter hereof, and fully supersede all prior agreements and
16 understandings between the Parties with respect thereto. No oral representations, warranties, or
17 inducements have been made to any Party concerning this Joint Stipulation of Settlement other than
18 the representations, warranties, and covenants contained and memorialized in such documents.

19 5. In addition to the Parties, this Joint Stipulation of Settlement shall be binding upon,
20 and shall inure to the benefit of, the Parties' respective heirs, representatives, executors,
21 administrators, successors, and assigns.

22 6. This Joint Stipulation of Settlement is made and entered into in the State of California
23 and shall in all respects be interpreted, enforced, and governed under the laws of said state as applied
24 to transactions or events with contacts exclusively within California, and without applying
25 California's conflict of laws rules. The Parties agree that this Joint Stipulation may be enforced
26 under Civil Code section 664.6 and that any action arising out of or to enforce this Joint Stipulation
27 of Settlement shall be brought exclusively within Los Angeles County, California.

1 7. Counsel for all Parties warrant and represent that they are expressly authorized by
2 the Parties whom they represent to enter into this Joint Stipulation of Settlement, to take all
3 appropriate action required or permitted to be taken by such Parties pursuant to this Joint Stipulation
4 of Settlement to effectuate its terms, and to execute any other documents required to effectuate the
5 terms of this Joint Stipulation of Settlement. The Parties and their counsel will cooperate with each
6 other and use their best efforts to effect the implementation of this Joint Stipulation of Settlement.

7 8. The Parties agree that neither they nor their counsel will solicit or otherwise directly
8 or indirectly encourage Settlement Class Members to request exclusion from the Settlement Class,
9 to object to this Joint Stipulation of Settlement, or to appeal from the Final Class Judgment.

10 9. The Parties have cooperated in the drafting and preparation of this Joint Stipulation
11 of Settlement. This Joint Stipulation of Settlement shall not be construed against any Party on the
12 basis that such Party was the drafter.

13 10. Plaintiff and his counsel will not publicize or promote the fact, terms, or amount of
14 this Joint Stipulation of Settlement or the claims being settled through press release, press
15 conference, or postings on social media or websites until after final approval is granted. If asked for
16 comment by the media or third parties, Plaintiff shall respond only with “no comment” or statements
17 agreed to by Defendant. Class Counsel may refer to the settlement in adequacy of counsel
18 declarations, and following Preliminary Approval, may state on their websites that they settled a
19 wage and hour class action in the Superior Court and generally describe the claims at issue, provided
20 that they describe Defendant only as a “Defendant Employer.” Further, the Parties understand and
21 agree that Class Counsel may disclose this Joint Stipulation of Settlement if ordered to do so by the
22 Court, *e.g.*, post any settlement documents/orders on their respective websites and/or provide
23 information to Settlement Class Members about this Joint Stipulation of Settlement. This Joint
24 Stipulation of Settlement may also be used for purposes of resolving related or overlapping lawsuits
25 or claims by showing the scope of releases and the res judicata bar.

26 11. To the fullest extent permitted by law, Plaintiff agrees to not disparage or publish or
27 disseminate information, whether oral or written, that is derogatory in any manner or which may be
28

1 harmful to any Released Party or their business or personal reputation, whether such information
2 was acquired before, during or after Plaintiff's employment with Defendant.

3 12. This Joint Stipulation of Settlement may be executed in counterparts, and when each
4 Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
5 original, and, when taken together with other signed counterparts, shall constitute one Joint
6 Stipulation of Settlement, which shall be binding upon and effective as to all Parties. This Joint
7 Stipulation of Settlement may be signed through electronically exchanged documents (such as
8 PDFs) which shall be treated as original paper copy signatures.

9 13. The Parties believe that this is a fair, reasonable, and adequate Settlement and have
10 arrived at this Settlement through arms-length negotiations, taking into account all relevant factors,
11 present and potential.

12 14. Should any part, term or provision of this Joint Stipulation of Settlement, with the
13 exception of Sections IV, IX, XII, XIII, XVI, and XVII, be declared or determined by any court or
14 other tribunal of appropriate jurisdiction to be invalid or unenforceable, any such invalid or
15 unenforceable part, term, or provision shall be deemed stricken and severed from this Joint
16 Stipulation of Settlement and any and all of the other terms of the Joint Stipulation of Settlement
17 shall remain in full force and effect to the fullest extent permitted by law. The Sections specified
18 above in this paragraph are of the essence of this Joint Stipulation of Settlement, and, should any
19 term or provision of those Sections be deemed invalid or unenforceable, the court making such
20 determination shall have the power to limit the term or provision, to delete or rewrite specific words
21 or phrases in those terms or provisions, or to replace any invalid or unenforceable term or provision
22 to make the term or provision valid and enforceable; provided that any such modification must come
23 as close as possible to expressing the intention of the invalid or unenforceable term or provision and
24 provided further that such changes may not increase the amount Defendant must pay or eliminate
25 or amend any Parties' termination rights under Sections XVI or XVII.

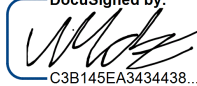
26 15. Nothing in this Joint Stipulation of Settlement shall restrict: (i) any right to file,
27 testify, or otherwise cooperate in the investigation of an administrative charge or complaint with the
28 Equal Employment Opportunity Commission, the National Labor Relations Board or other federal,

1 state, or local administrative or law enforcement agency, although Plaintiffs are waiving any right
 2 to monetary recovery related to such a charge or complaint; (ii) any right to report allegedly unlawful
 3 conduct pursuant to the “whistleblower” provisions of federal or state law or regulation, including
 4 the right to receive awards pursuant to Section 21F of the Securities Exchange Act; (iii) any right to
 5 communicate directly with, respond to an inquiry from, or provide testimony before, the Securities
 6 and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other
 7 self-regulatory organization or any other regulatory authority; or (iv) the Parties and their counsel
 8 from complying with a valid subpoena, court order, or any other legal process requesting or
 9 requiring production of this Joint Stipulation of Settlement, disclosure of the terms of this Joint
 10 Stipulation of Settlement, or disclosure of anything else covered by the confidentiality provisions
 11 of this Joint Stipulation of Settlement, provided that, upon receiving such a subpoena, process, or
 12 court order, the receiving Party shall immediately give notice to the other Party or the other Party’s
 13 counsel, identify the subpoena, process, or court order, and state the time in which production or
 14 disclosure is required, so as to afford the other Party an opportunity to obtain an order barring such
 15 production or disclosure.

16 16. In any proceeding to enforce or construe this Joint Stipulation of Settlement, the
 17 prevailing Party shall be entitled to recover its costs and attorney’s fees.

18
 19 PLAINTIFF ULISES HERNANDEZ,

20 Dated: February 16, 2023

DocuSigned by:

 C3B145EA3434438...

21 Name: _____

22
 23
 24 DEFENDANT GEMSA ENTERPRISES, LLC

25 Dated:

26 By: _____

[NAME]

27 Title: _____

1 **APPROVED AS TO FORM:**

2 LAVI & EBRAHIMIAN, LLP

3 DocuSigned by:

4 *Joseph Lavi*

871E0169FCF244D...

By: _____

Dated: February 16, 2023

Joseph Lavi

*Counsel for Plaintiff, on behalf of himself and all
others similarly situated*

7 TREADWAY, LUMSDAINE & DOYLE LLP

9 Dated:

By: _____

Shannon Marie Jenkins. Esq.

Counsel for Defendant Gemsa Enterprises, LLC