

1 Robert Drexler (SBN 119119)
 Robert.Drexler@CapstoneLawyers.com
 2 Molly DeSario (SBN 230763)
 Molly.DeSario@CapstoneLawyers.com
 3 Jonathan Lee (SBN 267146)
 Jonathan.Lee@CapstoneLawyers.com
 4 Capstone Law APC
 1875 Century Park East, Suite 1000
 5 Los Angeles, California 90067
 Telephone: (310) 556-4811
 6 Facsimile: (310) 943-0396

7 Attorneys for Plaintiffs Rosa Esmeralda Esteban Martinez
 and Mirian Gonzalez Orellano

8 RUTAN & TUCKER, LLP
 9 Maria Z. Stearns (State Bar No. 230649)
 mstearns@rutan.com
 10 Kenneth J. Zielinski (State Bar No. 258555)
 kzielinski@rutan.com
 11 Jonas Trevethan (State Bar No. 340465)
 jtrevethan@rutan.com
 12 18575 Jamboree Road, 9th Floor
 Irvine, CA 92612
 13 Telephone: 714-641-5100
 Facsimile: 714-546-9035

14 Attorneys for Defendant
 15 PACIFIC CATCH, INC.

16 (Additional Counsel on Next Page)

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF SANTA CLARA

19 ROSA ESMERALDA ESTEBAN MARTINEZ
 and MIRIAN GONZALEZ ORELLANO, as
 20 aggrieved employees pursuant to the Private
 Attorneys General Act ("PAGA"), on behalf of
 21 the State of California and other aggrieved
 employees,

22 Plaintiffs,

23 v.

24 PACIFIC CATCH, INC., a California
 25 corporation; and DOES 1 through 10, inclusive,

26 Defendants.

27 AND CONSOLIDATED ACTIONS.
 28

Lead Case No. 22CV393580
 Consolidated with Case No. 23CV420141

ASSIGNED FOR ALL PURPOSES TO:
 HON. SUNIL R. KULKARNI, DEPT. 1

**SETTLEMENT AGREEMENT AND
 STIPULATION TO RESOLVE CLASS
 ACTION AND PAGA CLAIMS**

1 JAMES HAWKINS APLC
James R. Hawkins (SBN 192925)
2 Christina M. Lucio (SBN 253677)
Danielle L. Piskor (SBN 338246)
3 9880 Research Drive, Suite 200
Irvine, California 92618
4 Telephone: (949) 387-7200
Facsimile: (949) 387-6676
5 James@jameshawkinsaplc.com
Christina@jameshawkinsaplc.com
6 Danielle@jameshawkinsaplc.com

7 Attorneys for Plaintiff Kelly Stover, on behalf
of herself and all others similarly situated
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Settlement Agreement and Stipulation To Resolve Class Action and PAGA Claims (the “**Settlement Agreement**,” “**Agreement**,” or “**Settlement**”) is entered into to resolve the following actions: (1) *Martinez et al. v. Pacific Catch, Inc.*, Santa Clara County Superior Court Case No. 22CV393580 (the “*Martinez Action*”); and (2) *Stover v. Pacific Catch, Inc.*, Santa Clara County Superior Court Case No. 23CV420141 (previously Marin County Superior Court Case Nos. CIV2202328 (class action) and CIV2203099 (PAGA action)) (the “*Stover Actions*”) (collectively with the *Martinez Action*, the “*Actions*”). On August 18, 2023, the *Stover* and *Martinez Actions* were consolidated for all purposes. This agreement is entered into between Plaintiff Rosa Esmeralda Esteban Martinez (“*Martinez*”), Plaintiff Mirian Gonzalez Orellano (“*Orellano*”), Plaintiff Kelly Stover (“*Stover*”), and Defendant Pacific Catch, Inc. (“*Defendant*”) (collectively referred to as the “*Parties*”).

DEFINITIONS

1. **Actions**. “**Actions**” mean the *Martinez Action* and the *Stover Actions*.
2. **Aggrieved Employees**. “**Aggrieved Employees**” means all non-exempt, hourly-paid employees of Defendant employed in California at a restaurant location at any time during the PAGA Period.
3. **Agreement or Settlement or Settlement Agreement**. “**Agreement**” or “**Settlement**” or “**Settlement Agreement**” means this Settlement Agreement and Stipulation To Resolve Class Action and PAGA Claims, entered into by the Parties to resolve the Actions.
4. **Attorneys’ Fees and Costs**. “**Attorneys’ Fees and Costs**” means the amount authorized by the Court for: (i) an award of attorneys’ fees to Class Counsel for litigation and resolution of the matter, in the amount that does not exceed 33^{1/3}% percent of the Gross Settlement Amount; and (ii) reimbursement of actual costs incurred by Class Counsel in connection with this Actions, in an amount to not to exceed \$25,000.00.
5. **Class Counsel**. “**Class Counsel**” means Raul Perez, Robert Drexler, Molly DeSario, and Jonathan Lee of Capstone Law APC, and James Hawkins and Christina Lucio of James Hawkins APLC.
6. **Class or Class Members**. “**Class**” or “**Class Members**” means all non-exempt,

hourly-paid employees of Defendant employed in California at a restaurant location at any time during the Class Period.

7. Class Notice. “**Class Notice**” means the Notice of Class Action Settlement, attached as **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.

8. Class Period. “**Class Period**” means the period from January 24, 2018 through the earlier of (a) February 28, 2023, or (b) the date the Court grants preliminary approval of the class settlement.

9. Court. “**Court**” means the Santa Clara County Superior Court, where the Actions are currently pending.

10. Defendant. “**Defendant**” means Pacific Catch, Inc.

11. Effective Date. The “**Effective Date**” of this Agreement will be the later of (i) the 61st day after service of notice of entry of the Final Order and Final Judgment, if no appeal, review, or writ has been filed; or (ii) if an appeal, review, or writ is sought from the Final Order or Final Judgment, the day after the Final Order and Final Judgment are affirmed or the appeal, review, or writ is dismissed or denied, and the Final Order and Final Judgment are no longer subject to further judicial review. The Effective Date is conditioned upon the Court’s having entered a Final Order and Judgment as set forth in this Agreement.

12. Enhancement Award. “**Enhancement Award**” means the amount the Court authorizes to be paid to each of the Named Plaintiffs in addition to their Individual Settlement Payment, in recognition of their efforts and work in prosecution of the Actions, up to \$5,000.00 each.

13. Final Hearing Date. “**Final Hearing Date**” means the date set by the Court for the hearing on final approval of the Settlement.

14. Final Order and Judgment. “**Final Order and Judgment**” means the proposed order granting final approval of the Settlement and the separate proposed judgment, which Plaintiffs will submit to the Court with the motion for final approval of the Settlement.

15. General Release Payment. “**General Release Payment**” means the amount the Court authorizes to be paid to each of the Named Plaintiffs in addition to their Individual Settlement

1 Payments and Enhancement Awards, up to \$5,000.00 each, as compensation for their General
2 Release of All Claims.

3 16. Gross Settlement Amount. “**Gross Settlement Amount**” means the total settlement
4 payment Defendant has agreed to make under this Agreement. The Gross Settlement Amount is
5 \$1,800,000.00.

6 17. Individual PAGA Payment. “**Individual PAGA Payment**” means a payment to an
7 Aggrieved Employee of the employee’s share of the PAGA Payment as set forth in this Agreement.

8 18. Individual Settlement Payment. “**Individual Settlement Payment**” means the
9 individual settlement payment allocated to each Participating Class Member and/or Aggrieved
10 Employee as set forth in this Agreement, and consists of the Participating Class Member Payment
11 and the Individual PAGA Payment to the extent an employee is eligible.

12 19. Named Plaintiffs. “**Named Plaintiffs**” means Rosa Esmeralda Esteban Martinez,
13 Mirian Gonzalez Orellano, and Kelly Stover.

14 20. Notice Period. “**Notice Period**” means the time period commencing on the date the
15 Class Notice is mailed to Class Members and ending 45 days thereafter unless a notice is remailed
16 to a Class Member, in which case, the Notice Period shall end either 45 days after mailing or 15
17 days after remailing, whichever is later.

18 21. Net Class Settlement Amount. “**Net Class Settlement Amount**” means the
19 settlement amount to be distributed to Participating Class Members, which is the Gross Settlement
20 Amount less Attorneys’ Fees and Costs, the Enhancement Award, the General Release Payment,
21 the PAGA Amount, and Settlement Administration Costs.

22 22. PAGA Claims. “**PAGA Claims**” means, for the duration of the PAGA Period,
23 claims for penalties under the California Private Attorneys’ General Act (California Labor Code §
24 2698, *et seq.*) that (a) arise from the facts, matters, transactions or occurrences alleged in the Actions
25 or that could have been alleged in the Actions based on such facts; and/or (b) arise from the facts,
26 matters, transactions or occurrences alleged, or that could have been alleged, in the PAGA Notice
27 Letters sent by the Named Plaintiffs to the Labor and Workforce Development Agency (“**LWDA**”)
28 pursuant to Labor Code section 2699.3 on or about November 18, 2021, and/or in the Amended

PAGA Notice Letters sent by the Named Plaintiffs to the LWDA on or about December 8, 2022, and/or in the PAGA Notice Letter dated July 22, 2022, asserting that Defendant violated various provisions of the Labor Code. Without limiting the foregoing, and in addition to the foregoing, the PAGA Claims include claims premised on failure to pay minimum wages including, but not limited to, pre and post shift work; failure to pay overtime compensation; failure to provide meal periods and rest breaks or premium payments; failure to provide and maintain complete and accurate itemized wage statements as required by the California Labor Code; failure to maintain payroll records; untimely payment of wages during employment and at the time of termination; failure to reimburse business expenses; failure to provide notice of material terms of employment; failure to properly pay tips; violations of California Labor Code §§ 201, 201.3, 202, 203, 204, 204.1, 204.2, 204.11, 205, 205.5, 210, 216, 218.5, 218.6, 223, 226, 226.3, 226.7, 256, 351, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198, 2802, 2810.5; in connection with the allegations in the LWDA Notices and Operative Complaints; and related violations of the applicable California Wage Orders.

23. PAGA Amount. “**PAGA Amount**” means the amount of \$100,000.00, which represents the portion of the Gross Settlement Amount allocated to the settlement of the PAGA Claims. The PAGA Amount is paid from the Gross Settlement Amount, and will be allocated as set forth in this Agreement. The Parties agree that 75% of the PAGA Amount (\$75,000.00) will be paid to the LWDA as the “**LWDA Payment**,” and the remaining 25% (\$25,000.00) will be allocated to the Aggrieved Employees as the “PAGA Payment.”

24. PAGA Period. “**PAGA Period**” means the period from November 18, 2020 through the earlier of (a) February 28, 2023, or (b) the date the Court grants preliminary approval of the class settlement.

25. Parties. “**Parties**” means the Defendant and the Named Plaintiffs, individually and on behalf of all Class Members and Aggrieved Employees. Each of the Parties may be referred to in the singular as a “**Party**.”

26. Participating Class Member. “**Participating Class Member**” means each Class Member who has not timely opted out of the Settlement pursuant to this Agreement; “**Settlement**

1 **Class**” means a class of all Participating Class Members.

2 27. Preliminary Approval Order. “**Preliminary Approval Order**” means an order from
3 the Court preliminarily approving this Settlement.

4 28. Released Parties. “**Released Parties**” means and includes Pacific Catch, Inc. and its
5 respective current and former parents, predecessors or successors, holding companies, affiliated
6 companies or entities, owners, investors, shareholders, members, partners, officers, directors,
7 managers, employees, and agents, attorneys, insurers, and representatives.

8 29. Released Claims. “**Released Claims**” means, for the duration of the Class Period,
9 any and all claims against Defendant and the other Released Parties that arise from the facts, matters,
10 transactions or occurrences alleged in the Actions or that could have been alleged in the Actions
11 based on such facts. Without limiting the foregoing, and in addition to the foregoing, the Released
12 Claims include claims failure to pay minimum wages including, but not limited to, pre and post shift
13 work; failure to pay overtime compensation; failure to provide meal periods and rest breaks or
14 premium payments; failure to provide and maintain complete and accurate itemized wage statements
15 as required by the California Labor Code; failure to maintain payroll records; untimely payment of
16 wages during employment and at the time of termination; failure to reimburse business expenses;
17 failure to provide notice of material terms of employment; failure to properly pay tips; failure to
18 provide one day’s rest in seven; violations of California Labor Code §§ 201, 201.3, 202, 203, 204,
19 204.1, 204.2, 204.11, 205, 205.5, 210, 216, 218.5, 218.6, 223, 226, 226.3, 226.7, 256, 351, 510, 512,
20 516, 551, 552, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198,
21 2802, 2810.5; related violations of the applicable California Wage Orders; violations of all related
22 or corresponding federal laws; and violations of California Business and Professions Code section
23 17200, *et seq* in connection with the alleged Labor Code violations alleged (or that could be alleged
24 based on the facts pled) in the Actions.

25 30. Settlement Administration Costs. “**Settlement Administration Costs**” means the
26 costs of settlement administration, including costs of notice to Class Members, distributing
27 settlement payments, and any other fees and costs incurred or charged by the Settlement
28 Administrator in connection with the execution of its duties under this Settlement.

6 RECITALS

34. On January 24, 2022, Named Plaintiffs Rosa Esmeralda Esteban Martinez and Mirian Gonzalez Orellano filed a PAGA Complaint against defendant Pacific Catch, Inc. in a case styled *Martinez et al. v. Pacific Catch, Inc.*, Santa Clara County Superior Court Case No. 22CV393580. The original PAGA Complaint alleges that Defendant violated various wage-and-hour laws and sought civil penalties for all related or corresponding violations of the California Labor Code, including: (1) failure to pay overtime; (2) failure to pay minimum wages; (3) failure to provide and record meal periods; (4) failure to authorize and permit rest breaks; (5) failure to provide and maintain compliant wage statements; (6) failure to pay wages during employment; (7) failure to pay wages upon termination; (8) failure to reimburse business expenses; and (9) failure to provide written notice of material terms of employment.

36. On July 25, 2022, Named Plaintiff Kelly Stover filed a Class Action Complaint against defendant Pacific Catch, Inc. in a case originally styled *Stover v. Pacific Catch, Inc.*, Marin County Superior Court Case No. CIV2202328. The Class Action Complaint alleges that Defendant violated various wage-and-hour laws, including (1) failure to pay minimum wages; (2) failure to pay overtime owed; (3) failure to provide lawful meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay wages owed during employment; (6) failure to timely pay wages owed upon separation from employment; (7) failure to furnish accurate itemized wage statements; and (8) violation of the Unfair Competition Law.

1 37. On September 13, 2022, the Named Plaintiffs Rosa Esmeralda Esteban Martinez and
2 Mirian Gonzalez Orellano filed a First Amended Class and PAGA Action Complaint, asserting
3 claims for (1) civil penalties pursuant to PAGA for the same claims asserted in the original PAGA
4 Complaint; (2) unpaid overtime; (3) unpaid minimum wages; (4) failure to provide meal periods or
5 premiums; (5) failure to provide rest breaks or premiums; (6) non-compliant wage statements and
6 failure to maintain payroll records; (7) failure to timely pay wages upon termination; (8) failure to
7 timely pay wages during employment; (9) failure to provide one days' rest in seven; (10)
8 unreimbursed business expenses; (11) failure to provide written notice of material terms of
9 employment; (12) unlawful business practices; and (13) unfair business practices.

10 38. On September 27, 2022, Named Plaintiff Kelly Stover filed a PAGA Complaint,
11 against defendant Pacific Catch, Inc. in a case originally styled *Stover v. Pacific Catch, Inc.*, Marin
12 County Superior Court Case No. CIV2203099, which alleged the same wage-and-hour violations
13 as those raised in Stover's Class Action Complaint and PAGA Notice to the LWDA.

14 39. On November 28, 2022, the Parties participated in mediation with Louis Marlin, Esq.
15 of Louis Marlin Mediation (the "**Mediator**"), a respected mediator of complex wage-and-hour
16 actions, and with the assistance of the Mediator's evaluations, the Parties reached the settlement that
17 is memorialized in this Agreement.

18 40. On December 8, 2022, Named Plaintiffs Rosa Esmeralda Esteban Martinez and
19 Mirian Gonzalez Orellano each submitted separate Amended PAGA Notices to the LWDA. On
20 February 14, 2023, Martinez and Orellano filed a Second Amended Class and PAGA Action
21 Complaint, adding a claim for Defendant's alleged failure to properly pay tips, consistent with
22 allegations set forth in Martinez and Orellano's Amended PAGA Notices.

23 41. On March 7, 2023, the Marin County Superior Court entered an order consolidating
24 the *Stover* Class Action and the *Stover* PAGA Action, with the *Stover* Class Action serving as the
25 lead case.

26 42. On March 13, 2023, the Marin County Superior Court entered an order transferring
27 the *Stover* Actions to Department 1 of the Santa Clara County Superior Court.

28 43. On August 3, 2023, the *Stover* Actions were assigned Case No. 23CV420141 in the

1 Santa Clara County Superior Court.

2 44. On August 18, 2023, the *Stover* Actions were consolidated with the *Martinez* Action,
3 with the *Martinez* Action serving as the lead case.

4 45. Defendant denies that it engaged in any misconduct in connection with the wage-
5 and-hour practices associated with the Class Members (inclusive of the Aggrieved Employees).
6 Defendant further denies that it has any liability of any kind associated with the claims alleged in
7 the Actions. Defendant contends that it has complied with both federal and state wage-and-hour
8 laws, and all other laws regulating its relationship with the Class Members and the Aggrieved
9 Employees, including the Named Plaintiffs.

10 46. Class Counsel has investigated the facts relating to the Actions. Settlement
11 discussions were conducted at arm's length during a full-day mediation with a neutral third-party
12 mediator, and the Settlement is the result of an informed and detailed analysis of Defendant's
13 potential liability and exposure in relation to the costs and risks associated with continued litigation.
14 Based on the documents and data produced, as well as Class Counsel's own independent
15 investigation and evaluation, Class Counsel believes that the Settlement documented by this
16 Settlement Agreement is fair, reasonable, and adequate, and in the best interest of the Class in light
17 of all known facts and circumstances, including the risk of significant delay and defenses asserted
18 to the merits of the Actions. While Defendant specifically denies any liability in the Actions,
19 Defendant has agreed to enter into this Settlement to avoid the costs associated with defending the
20 Actions.

21 TERMS AND CONDITIONS

22 NOW, THEREFORE, in consideration of the recitals listed above and the promises and
23 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of
24 the consideration and undertakings set forth below, Named Plaintiffs, individually and on behalf of
25 the Class Members, Aggrieved Employees, and, to the extent permitted by law, the State of
26 California, and Defendant agree that the Actions shall be and are finally and fully compromised and
27 settled on the following terms and conditions:

28 47. Non-Admission Of Liability. The Parties enter into this Agreement to resolve the

1 dispute that has arisen between them and to avoid the burden, expense and risk of continued
2 litigation. In entering into this Agreement, Defendant and the other Released Parties do not admit,
3 and specifically deny, that they have violated any federal, state, or local law; violated any regulations
4 or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
5 requirements; breached any contract; violated or breached any duty; engaged in any
6 misrepresentation or deception; or engaged in any other unlawful conduct with respect to the Class
7 or the Aggrieved Employees. Neither this Agreement, nor any of its terms or provisions, nor any
8 of the negotiations connected with it, shall be construed as an admission or concession by Defendant
9 or any of the other Released Parties of any such violations or failures to comply with any applicable
10 law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement
11 and its terms and provisions shall not be offered or received as evidence in any action or proceeding
12 to establish any liability or admission on the part of Defendant or to establish the existence of any
13 condition constituting a violation of, or a non-compliance with, federal, state, local or other
14 applicable law.

15 48. Conditional Nature Of Settlement. For settlement purposes *only*, the Parties agree
16 that (a) a class may be certified in the Actions pursuant to California Code of Civil Procedure Section
17 382, and (b) the Actions may proceed as a PAGA representative action.

18 a. The Parties intend their settlement to be contingent upon the preliminary and
19 final approval of each and every term of this Agreement, without material modification. The Parties
20 and their respective counsel shall use their respective best efforts to obtain Court approval and
21 implement this Agreement in accordance with its terms. If the Court does not so approve this
22 Agreement, the Parties agree to meet and confer to address the Court's concerns. If the Parties are
23 unable to agree upon a resolution, the Parties agree to refer their dispute to the Mediator for informal
24 assistance in seeking a resolution. If thereafter the Parties are unable to resolve the dispute, the
25 Parties intend this Agreement to become null and void, and unenforceable, in which event the
26 settlement terms set forth in this Agreement, including any modifications made with the consent of
27 the Parties, and any action taken or to be taken in connection with this Agreement shall be terminated
28 and shall become null and void and have no further force or effect, and the class certified for

1 settlement purposes pursuant to this Agreement will be decertified for all purposes.

2 b. In the event the Court does not grant preliminary or final approval of the
3 Parties' settlement, or in the event that this Agreement shall terminate or the settlement embodied
4 in this Agreement does not become effective for any reason, the Agreement and all negotiations,
5 court orders and proceedings relating to the Agreement shall be without prejudice to the rights of
6 the Named Plaintiffs, Class Members, Aggrieved Employees, and Defendant, each of whom shall
7 be restored to their respective positions existing prior to the execution of this Agreement, and
8 evidence relating to the Agreement and all negotiations shall not be discoverable or admissible in
9 the Actions or any other litigation. Defendant does not waive, and instead expressly reserves, its
10 rights to challenge the propriety of class certification and/or the Actions proceeding on a
11 representative basis for any purpose should the Court not grant preliminary or final approval of the
12 Parties' settlement.

13 49. Participating Class Members' Release Of Claims. Upon the funding of the Gross
14 Settlement Amount and the Employer's Taxes necessary to effectuate the Settlement to the
15 Settlement Administrator, the Named Plaintiffs and all Participating Class Members shall be
16 deemed to have fully, finally, and forever released, settled, compromised, relinquished and
17 discharged any and all of the Released Parties from the Released Claims that arose during the Class
18 Period.

19 a. This release by the Named Plaintiffs and each Participating Class Member is
20 intended to settle any and all of the Released Claims that any of them may have against Defendant
21 or any of the Released Parties during the Class Period.

22 b. Because it is impossible or impracticable to have each Class Member execute
23 this Agreement, the Class Notice will advise all Class Members of the binding nature of the release
24 and such notice will have the same force and effect as if the Agreement were executed by each Class
25 Member.

26 50. Aggrieved Employees' Release of PAGA Claim. In exchange for the PAGA
27 Amount recited in this Agreement, the Named Plaintiffs, as the representatives for the State of
28 California and all Aggrieved Employees (to the extent permitted by law), and on behalf of their

1 current, former, and future heirs, executors, administrators, attorneys, agents, and assigns will, upon
2 payment of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate the
3 settlement to the Settlement Administrator, forever completely release and discharge Defendant and
4 each of the Released Parties from the PAGA Claims that arose during the PAGA Period. The
5 Aggrieved Employees and the State of California will be deemed by operation of the Final Order
6 and Judgment to have agreed not to sue or otherwise make a claim against Defendant and any of the
7 Released Parties for the PAGA Claims that arose during the PAGA Period, to the extent permissible
8 by law.

9 51. Full Release By The Named Plaintiffs. Upon payment of the Gross Settlement
10 Amount and the Employer's Taxes necessary to effectuate the settlement to the Settlement
11 Administrator, the Named Plaintiffs fully release and discharge Defendant and the other Released
12 Parties from the Released Claims and any other claims that the Named Plaintiffs now have or claim
13 to have, or have ever had or claimed to have, against Defendant and the Released Parties. Without
14 limiting the generality of the foregoing, the Named Plaintiffs specifically and expressly release to
15 the maximum extent permitted by law any claims against Defendant and the Released Parties,
16 arising out of or relating to the Named Plaintiffs' employment or the termination of their
17 employment with Defendant and any other Released Party. This general release by the Named
18 Plaintiffs includes a waiver of Named Plaintiffs' rights under Civil Code Section 1542, which
19 provides: "A general release does not extend to claims that the creditor or releasing party does not
20 know or suspect to exist in his or her favor at the time of executing the release and that, if known
21 by him or her, would have materially affected his or her settlement with the debtor or released party."

22 52. No Prior Assignments. The Named Plaintiffs represent and warrant that they have
23 not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or
24 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action,
25 or rights released and discharged by this Agreement.

26 53. Settlement Payments And Calculation Of Claims. Subject to final Court approval
27 and the conditions specified in this Agreement, and in consideration of the mutual covenants and
28 promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of

\$1,800,000.00. The Gross Settlement Amount includes, but is not limited to, payments to be made to Participating Class Members, Class Counsel's Attorneys' Fees and Costs, Enhancement Awards to the Named Plaintiffs, General Release Payments to the Named Plaintiffs, the PAGA Amount, and Settlement Administration Fees and Costs. For the avoidance of doubt, subject to the conditions set forth in this Agreement, Defendant shall not be required to pay any amount over \$1,800,000.00 for this Settlement, apart from the employer's share of applicable taxes which will be paid in addition to the Gross Settlement Amount, and as set forth in Paragraph 54.

54. Settlement Escalator. The Settlement is based on the representation that there were no more than 108,155 non-exempt workweeks worked by the Class Members during the period of January 24, 2018 through October 30, 2022. If that number is incorrect by more than 7.5% (i.e., by more than 8,112 workweeks), Defendant shall increase the Gross Settlement Amount proportionally. For example, if the number is 8.5% higher, the Gross Settlement Amount will be increased by 1%.

55. Apportionment of Gross Settlement Amount. The Parties agree, subject to Court approval and the conditions specified in this Agreement, that the Gross Settlement Amount shall be apportioned as follows:

a. Class Counsel Attorneys' Fees and Costs: At the final approval hearing, Class Counsel will apply to the Court for an award of Attorneys' Fees of no more than one-third ($33\frac{1}{3}\%$) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 54 of this Agreement, equals \$600,000.00. Class Counsel will also apply to the Court for an award of actual costs incurred by Class Counsel not to exceed the amount of \$25,000.00. These fees and costs are included in, and shall come from, the Gross Settlement Amount. James Hawkins APLC, counsel for plaintiff Kelly Stover in the consolidated action *Kelly Stover v. Pacific Catch, Inc.*, No. 23CV420141 (Santa Clara County Superior Court), will be entitled to a share of the awarded fees in an amount equal to $29\frac{1}{6}\%$ (currently estimated at \$175,000). Capstone Law APC and James Hawkins APLC will each be issued an IRS Form 1099 for any fees and costs awarded by the Court pursuant to this Paragraph 55.a. Except as provided in this Paragraph 55.a, each party will bear its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, or settlement of the

1 Actions. If the Court awards a lower amount of Attorneys' Fees and Costs than the amount
2 requested, any amount not awarded will be part of the distribution to the Participating Class
3 Members as set forth in this Agreement and shall not be a reason to invalidate/terminate this
4 Agreement.

5 b. Settlement Administrator Costs: At the final approval hearing, Class Counsel
6 will apply to the Court for approval of Settlement Administration costs, currently estimated at
7 \$25,000. These costs are included in, and shall come from, the Gross Settlement Amount. If the
8 actual amount of the Settlement Administration Costs is less than \$25,000, the difference shall be
9 added to the Net Class Settlement Amount. If the Settlement Administration Costs exceed \$25,000
10 then such excess will be paid solely from the Gross Settlement Amount and Defendant will not be
11 responsible for paying any additional funds in order to pay these additional costs.

12 c. Named Plaintiff Enhancement Award: At the final approval hearing, Class
13 Counsel will apply to the Court for awards of up to \$5,000.00 to each Named Plaintiff as an
14 Enhancement Award for their services and for assuming the risks associated with this litigation, for
15 the time spent in assisting Class Counsel to litigate this Action. Defendant will not oppose such
16 application. The Enhancement Awards are included in, and shall come from, the Gross Settlement
17 Amount. Each Named Plaintiff will be issued an IRS Form 1099 for the Enhancement Award
18 approved by the Court pursuant to this Paragraph. The Enhancement Award payable to each Named
19 Plaintiff shall be in addition to any payment they may receive pursuant to Paragraph 55.f, below. If
20 the Court awards less than the amount requested, any amount not awarded will be part of the
21 distribution to the Participating Class Members as set forth in this Agreement and shall not be a
22 reason to invalidate/terminate this Agreement.

23 d. Named Plaintiff General Release Payment: At the final approval hearing,
24 Class Counsel will apply to the Court for awards of up to \$5,000.00 to each Named Plaintiff as
25 consideration for providing a general release. Defendant will not oppose such application. The
26 General Release Payments are included in, and shall come from, the Gross Settlement Amount.
27 Each Named Plaintiff will be issued an IRS Form 1099 for the General Release Payment approved
28 by the Court pursuant to this Paragraph. The General Release Payment payable to each Named

1 Plaintiff shall be in addition to any payment they may receive pursuant to Paragraph 55.f, below. If
2 the Court awards less than the amount requested, any amount not awarded will be part of the
3 distribution to the Participating Class Members as set forth in this Agreement and shall not be a
4 reason to invalidate/terminate this Agreement.

5 e. PAGA Amount: At the final approval hearing, Class Counsel will apply to
6 the Court for approval of the PAGA Amount of \$100,000.00 for claims for civil penalties asserted
7 under PAGA. Class Counsel will submit notice of this Settlement to the LWDA, as required by
8 Labor Code § 2699(l)(2). The Parties agree that 75% of the PAGA Amount (\$75,000.00) will be
9 paid to the LWDA as the “**LWDA Payment**,” and the remaining 25% (\$25,000.00) will be allocated
10 to the Aggrieved Employees as the “PAGA Payment.” The portion of the PAGA Payment allocated
11 to each of the Aggrieved Employees will be calculated using the same formula as set forth in
12 Paragraph 55.f, but will be limited to weeks worked during the PAGA Period. Any Class Members
13 who worked during the PAGA Period and who opt out of the Settlement will still be considered
14 Aggrieved Employees for purposes of this Paragraph 55.de and, therefore, will (i) receive their
15 portion of the PAGA Payment (the Individual PAGA Payment); and (ii) release all PAGA Claims
16 against the Released Parties.

17 f. Individual Settlement Payments. The Individual Settlement Payments shall
18 consist of: (i) each Participating Class Member’s *pro rata* portion of the Net Class Settlement
19 Amount (the “**Participating Class Member Payment**”); and (ii) if applicable, each Aggrieved
20 Employee’s *pro rata* portion of the PAGA Payment (the Individual PAGA Payment).

21 i) Participating Class Member Payment: After deducting the approved
22 amounts specified in Paragraphs 55.a-e above, each Participating Class Member will be entitled to
23 a *pro rata* portion of the remaining amount. Participating Class Member Payments will be
24 calculated from the Net Class Settlement Amount based on the respective number of weeks worked
25 by each Participating Class Member in a non-exempt position during the Class Period, rounded up
26 to the nearest whole week. All Class Members will be deemed to have worked during at least one
27 week during the Class Period. Each Participating Class Member’s share of the Net Class Settlement
28 Amount will be calculated by dividing the Participating Class Member’s weeks worked in a non-

1 exempt position by the total number of weeks worked by all Class Members in a non-exempt
2 position during the Class Period and multiplying this figure by the Net Class Settlement Amount.
3 The Class Notice will include the number of weeks that the Class Member worked during the Class
4 Period and the amount the Class Member is estimated to receive under the terms of the Settlement.

5 ii) Individual PAGA Payment: For each Aggrieved Employee, the
6 Individual Settlement Payment will also include the Class Member's *pro rata* share of the PAGA
7 Payment, as set forth in Paragraph 55.de (the Individual PAGA Payment).

8 g. The Parties acknowledge and agree that the formula used to calculate the
9 Individual Settlement Payments (including the Participating Class Member Payments and Individual
10 PAGA Payments) does not mean that all of the elements of damages, restitutionary relief, and
11 penalties alleged in the Actions are not being taken into account. The above formula was devised
12 as a practical and logistical method to simplify the participation process.

13 h. Participating Class Member Payments shall be distributed only to
14 Participating Class Members. The portion of the Net Class Settlement Amount allocated to Class
15 Members who opt out of the Settlement will be distributed to Participating Class Members on a *pro*
16 *rata* basis based on the formula set forth in Paragraph 55.f. Individual PAGA Payments will be
17 distributed to all Aggrieved Employees.

18 i. The Parties agree that, under no circumstances shall Defendant be obligated
19 to pay any amount under this Agreement to any Class Member other than Participating Class
20 Members, with the exception of the Individual PAGA Payments which are not affected by a Class
21 Member opting-out of the Settlement. In addition, the Parties agree that, except as provided in
22 Paragraph 54, under no circumstances shall Defendant be obligated to pay more than the Gross
23 Settlement Amount in full settlement of the Actions.

24 56. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
25 Participating Class Members under this Agreement, including the Individual PAGA Payments made
26 to Aggrieved Employees, will not be utilized to calculate any additional benefits under any benefit
27 plans to which any Participating Class Member or Aggrieved Employees may be eligible including,
28 but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation

1 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention
2 that this Agreement will not affect any rights, contributions, or amounts which any Participating
3 Class Member or Aggrieved Employee may be entitled to under any benefit plans.

4 57. Taxation Of Settlement Proceeds. All settlement payments paid to Participating
5 Class Members, Aggrieved Employees, and the Named Plaintiffs, will be paid in a net amount after
6 applicable state and federal tax withholdings, including payroll taxes, have been deducted.

7 a. The Participating Class Member Payments shall be reported as follows:
8 (i) 20% of the amount distributed to each Participating Class Member will be considered wages, and
9 will be reported as such to each Participating Class Member on a W-2 Form; (ii) 40% of the amount
10 distributed to each Participating Class Member will be considered interest on the unpaid wages, and
11 will be reported as such to each Participating Class Member on an IRS Form 1099; and (iii) 40% of
12 the amount distributed to each Participating Class Member will be considered statutory penalties,
13 and will be reported as such to each Participating Class Member on an IRS Form 1099. The PAGA
14 Payments distributed to each Aggrieved Employee will be considered penalties and will be reported
15 on an IRS Form 1099.

16 b. Prior to mailing the Individual Settlement Payments, the Settlement
17 Administrator will calculate, withhold from the Individual Settlement Payment, and remit to
18 applicable governmental agencies sufficient amounts as may be owed by Participating Class
19 Members for required withholdings and taxes, including all payroll taxes. The Settlement
20 Administrator will issue appropriate tax forms to each Participating Class Member and Aggrieved
21 Employee consistent with the foregoing breakdown. The Parties understand that the Named
22 Plaintiffs, Participating Class Members, and Aggrieved Employees who receive an Individual
23 Settlement Payment, including an Individual PAGA Payment, pursuant to this Agreement shall be
24 solely responsible for any and all tax obligations associated with such receipt.

25 c. The Parties stipulate that the Settlement Fund (as defined at Paragraph 62)
26 will qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal
27 Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the federal income tax
28 regulations. Furthermore, the Settlement Administrator is designated as the "**Administrator**" of

1 the qualified settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations.
2 Accordingly, all taxes imposed on the gross income of the Settlement Fund and any tax-related
3 expenses arising from any income tax return or other reporting document that may be required by
4 the Internal Revenue Service or any state or local taxing body will be paid from the Settlement Fund.

5 d. All Parties represent and acknowledge that nothing in this Agreement
6 constitutes tax advice regarding the tax treatment of payments under federal, state, or local law. The
7 Named Plaintiffs, Participating Class Members, and Aggrieved Employees will assume any such
8 tax obligations or consequences that may arise from this Agreement and Class Members shall not
9 seek any indemnification from the Parties or any of the Released Parties in this regard. In the event
10 that any taxing body determines that additional taxes are due from any Class Member or Aggrieved
11 Employee, including Named Plaintiffs, such Class Member or Aggrieved Employee assumes all
12 responsibility for the payment of such taxes.

13 58. Notice Procedure. Within 14 calendar days after entry of the Preliminary Approval
14 Order, Defendant will provide to the Settlement Administrator a list of Class Members that identifies
15 each Class Member by name, Social Security Number, and last-known address; and specifies the
16 number of weeks worked by each Class Member in a non-exempt position during the Class Period
17 and the PAGA Period (the “**Class List**”). Defendant will provide the Class List in an Excel file or
18 other format reasonably acceptable to the Settlement Administrator. The Settlement Administrator
19 will keep the list confidential, except it shall be provided to Class Counsel upon request with Social
20 Security Numbers and address information redacted, and Class Counsel agrees to use such
21 information only for the purposes described in this Agreement.

22 a. Upon receipt of the Class List, the Settlement Administrator shall perform a
23 search based upon the National Change of Address Database to update and correct any known or
24 identifiable address changes. The Settlement Administrator shall exercise its best judgment to
25 determine the current mailing address for each Class Member. Within 14 calendar days after receipt
26 of the Class List from Defendant, the Settlement Administrator will send the Class Notice to each
27 Class Member via First Class U.S. Mail. Receipt of the Class Notice shall be presumed as to each
28 and every Class Member whose Class Notice is not returned to the Settlement Administrator as

1 undeliverable within 14 calendar days after mailing.

2 b. The Settlement Administrator will re-mail any notice packet returned by the
3 United States Postal Service with a forwarding address on or before the expiration of the Notice
4 Period. It shall be conclusively presumed that those Class Members whose re-mailed Class Notice
5 is not returned to the Settlement Administrator as undeliverable within 14 calendar days after re-
6 mailing, received the Class Notice. Class Members who receive a re-mailed Class Notice shall have
7 either 45 days from the original mailing or 15 days from the re-mailing, whichever is later, to object,
8 opt out, or dispute the workweeks attributed to him or her.

9 c. The Settlement Administrator will use the appropriate skip tracing and
10 National Change of Address searches to increase the likelihood of delivery of the Class Notice to
11 Class Members, and to re-mail the notice packets returned by the Postal Service without a
12 forwarding address upon locating new or alternate addresses after a reasonable search.

13 d. Class Counsel will provide to the Court, in connection with seeking final
14 approval of the Settlement, a declaration from the Settlement Administrator confirming that the
15 Class Notice was mailed to all Class Members as required by this Agreement, as well as any
16 additional information Class Counsel deems appropriate to provide to the Court.

17 59. Dispute Procedure. The Class Notice will include a procedure by which a Class
18 Member may dispute the number of workweeks allocated to the Class Member by submitting a
19 written dispute sent via U.S. Mail to the Settlement Administrator postmarked no later than the
20 expiration of the Notice Period (“**Workweek Dispute**”). To be valid, a Workweek Dispute must
21 contain the following: (i) the Class Member’s full name, current address, and signature; (ii) the
22 Action name and case number; (iii) the number of workweeks the Class Member maintains is
23 correct; and (iv) documentary evidence sufficient to prove that Defendant’s calculation of the
24 workweeks for the Class Member is incorrect, if any. Upon receipt of notice of a Workweek
25 Dispute, the Settlement Administrator shall promptly serve Defendant’s counsel with a copy of the
26 Workweek Dispute and any accompanying papers. Defendant’s counsel will inform Class Counsel
27 of any such dispute. No Workweek Dispute shall be effective or considered for any purpose unless
28 it is timely mailed by U.S. mail to and received by the Settlement Administrator as provided above.

1 Defendant shall have the right to respond to the Workweek Dispute by any Class Member. The
2 Settlement Administrator will resolve the Workweek Dispute and make a final and binding
3 determination without hearing or right of appeal.

4 a. Within 14 calendar days after the close of the Notice Period, the Settlement
5 Administrator will provide Class Counsel and Defendant's counsel with a report listing the amount
6 of all Individual Settlement Payments, including Individual PAGA Payments, to be made to
7 Participating Class Members and Aggrieved Employees. The report to Class Counsel will not
8 include the names or contact information of Participating Class Members and Aggrieved
9 Employees.

10 60. Opt-Out Procedure. Unless a Class Member opts out of the settlement described in
11 this Agreement, the Class Member will be bound by the terms and conditions of this Agreement,
12 including the release of the Released Claims that arose during the Class Period. A Class Member
13 will not be entitled to opt out of the settlement established by this Agreement unless the Class
14 Member submits a valid opt-out request ("**Opt-Out Request**"). A valid Opt-Out Request must:
15 (i) contain the Class Member's full name, current address, and signature; (ii) the Action name and
16 case number; (iii) a written request clearly expressing the Class Member's desire to be excluded
17 from (or opt out of) the Settlement; and (iv) be returned so that it is postmarked on or before the
18 expiration of the Notice Period. Any Class Members who worked during the PAGA Period and
19 who opt out of the Settlement will still be considered Aggrieved Employees for purposes of this
20 Agreement.

21 a. Upon receipt of any Opt-Out Request within the Notice Period, the
22 Settlement Administrator shall review the Opt-Out Request to confirm that it complies with the opt-
23 out requirements of this Agreement.

24 b. Any Class Member who fails to submit a timely, complete, and valid Opt-
25 Out Request will be barred from opting out of this Agreement or the settlement, unless otherwise
26 ordered by the Court. If the Settlement Administrator receives a timely Opt-Out Request that is
27 incomplete, it will make reasonable attempts to contact the class member to cure the defect. The
28 Settlement Administrator will not consider any Opt-Out Request postmarked after the end of the

1 Notice Period, but will report its receipt of any such requests to Class Counsel and counsel for
2 Defendant. It shall be presumed that if an Opt-Out Request is not postmarked on or before the end
3 of the Notice Period, the Class Member did not make the request in a timely manner. A declaration
4 submitted by any Class Member attesting to the mailing of an Opt-Out Request on or before the
5 expiration of the Notice Period shall be insufficient to overcome the conclusive presumption that
6 the Opt-Out Request was untimely. Under no circumstances shall the Settlement Administrator
7 have the authority to extend the deadline for Class Members to submit a request to opt out of the
8 settlement without the Parties' joint written consent.

9 c. At the close of the Notice Period, the Settlement Administrator shall report
10 the names of all individuals who opted out of the Agreement to the parties and include this
11 information in a Declaration regarding the distribution of the notice that will be provided in support
12 of Plaintiff's Motion for Final Approval.

13 d. If 5% or more Class Members timely opt out of the settlement, Defendant
14 will have the sole and absolute discretion to withdraw from this Agreement within ten (10) calendar
15 days after Defendant receives notice of the number of opt outs. Defendant will provide written
16 notice to Class Counsel if it intends to withdraw from this Agreement. In the event that Defendant
17 elects to so withdraw, the withdrawal shall have the same effect as a termination of this Agreement
18 for failure to satisfy a condition of settlement, and the Agreement shall become null and void and
19 have no further force or effect, and the class certified pursuant to this Agreement will be decertified
20 for all purposes. If Defendant chooses to terminate this Settlement Agreement under this provision,
21 it shall be responsible to pay the Settlement Administrator's fees and costs. If the Settlement
22 Agreement is terminated for any other reason, including the Court's failure to grant final approval
23 of the Parties' settlement, then Class Counsel and Defendant will be jointly responsible for the
24 Settlement Administrator's fees and costs.

25 61. Objections To Settlement. Any Class Member may object to the Settlement. Any
26 written objection must be mailed to the Settlement Administrator (who shall promptly provide a
27 copy to Class Counsel and counsel for Defendant) by the close of the Notice Period. Class Counsel
28 will ensure that any written objections get filed with the Court concurrently with the final approval

documents by having it attached to the Settlement Administrator's Declaration. Class Members who have not objected in writing may still appear and be heard at the Settlement Hearing.

a. Written objections to the Settlement must contain at least the following: (i) the objecting Class Member's full name, current address, and signature; (ii) a clear reference to the Action; (iii) a statement of the specific reasons why the objector believes the Settlement is unfair or objects to the Settlement; and (iv) a statement of whether the objector intends to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. All objections shall be signed by the objecting Class Member or the Class Member's legally-authorized representative.

b. Class Counsel or Defendant's counsel may, up to five (5) court days before the Final Hearing Date, file responses to any written objections submitted to the Court.

c. Unless they opt out of the Settlement as specified in Paragraph 60, Class Members who object to the proposed settlement or the Agreement will remain Participating Class Members, and shall be deemed to have voluntarily waived their right to pursue an independent remedy against Defendant and the other Released Parties. To the extent any Participating Class Member objects to the proposed settlement or Agreement and such objection is overruled in whole or in part, such individuals will be bound by the Court's Final Approval Order.

d. In the event that any person objects to or opposes this proposed settlement or the Agreement, or attempts to intervene in or otherwise enter the Actions, the Parties and Class Counsel will use their best efforts to defend the Settlement.

e. A Class Member cannot both opt out and object to the Settlement. If a Class Member both objects and opts out of the Settlement, the opt-out will control and the objection will be deemed invalid.

62. Funding And Distribution Of Settlement.

a. Within ten (10) calendar days of the close of the Notice Period, the Settlement Administrator will provide a draft declaration to Class Counsel and Defendant's counsel setting forth the number of Participating Class Members and Aggrieved Employees; the identity of those individuals who opted out of the Settlement; the total amount payable to all Participating Class

1 Members and Aggrieved Employees; and the total PAGA Amount, Attorneys' Fees and Costs,
2 Enhancement Award, General Release Payment, Settlement Administration Costs, Net Class
3 Settlement Amount, and the appropriate applicable employer's taxes for any portion of the
4 Individual Settlement Payments designated as wages.

5 b. On the Effective Date, Defendant shall remit to the Settlement Administrator:
6 (i) the Gross Settlement Amount of \$1,800,000.00 and (ii) the employer's taxes for any portion of
7 the Individual Settlement Payments designated as wages (the collectively, "**Settlement Fund**").
8 The delivery by Defendant of the Settlement Fund to the Settlement Administrator will constitute
9 the full and complete discharge of the entire obligation of Defendant under this Agreement, unless
10 anything further is requested by the Settlement Administrator to ensure timely and proper
11 disbursement. No Released Party will have any further obligation or liability to the Named
12 Plaintiffs, Participating Class Members, Aggrieved Employees, or Class Counsel under this
13 Agreement, in connection with the claims released herein, regardless of whether the Named
14 Plaintiffs, Participating Class Members, Aggrieved Employees, or Class Counsel receive the
15 payments from the Settlement Administrator set forth in this Agreement.

16 c. The distribution of Individual Settlement Payments to Participating Class
17 Members and Aggrieved Employees will occur no later than ten (10) calendar days after receipt of
18 the Settlement Fund from Defendant ("**Settlement Proceeds Distribution Deadline**"). The
19 Settlement Administrator shall be deemed to have timely distributed Individual Settlement
20 Payments, including Individual PAGA Payments, if it places in the mail the Individual Settlement
21 Payments for all Participating Class Members and the Individual PAGA Payments for all Aggrieved
22 Employees by the Settlement Proceeds Distribution Deadline. No person will have any claim
23 against the Settlement Administrator, Defendant, Class Counsel, Defendant's counsel, or any other
24 agent designated by the Named Plaintiffs or Class Counsel based upon the distribution of Individual
25 Settlement Payments made substantially in accordance with this Agreement or further orders of the
26 Court.

27 d. The distribution of the LWDA Payment, Attorneys' Fees and Costs, the
28 Enhancement Award, and the General Release Payment shall occur no later than ten (10) calendar

1 days after the Settlement Administrator receives the Settlement Fund from Defendant.

2 e. If a Participating Class Member's or Aggrieved Employee's check is returned
3 to the Settlement Administrator, the Settlement Administrator will make reasonable efforts to re-
4 mail it to the Participating Class Member or Aggrieved Employee at the correct address. It is
5 expressly understood and agreed that the checks for the Individual Settlement Payments, including
6 the Individual PAGA Payments, will become void and no longer available if not cashed within 180
7 calendar days after mailing. The funds from uncashed and voided checks will be transferred to the
8 State of California's Unclaimed Property Fund in the name of the Participating Class
9 Member/Aggrieved Employee.

10 f. Defendant will not be obligated to make any payments contemplated by this
11 Agreement unless and until the Court enters the Final Order and Judgment, and after the Effective
12 Date of the Agreement.

13 g. Within sixty (60) calendar days of the Settlement Proceeds Distribution
14 Deadline, the Settlement Administrator will provide written certification of completion of settlement
15 administration to Class Counsel and to Defendants' Counsel.

16 63. Binding Effect Of Agreement On Class Members. Subject to final Court approval
17 and the occurrence of the Effective Date, and unless otherwise provided in this Agreement, all
18 Participating Class Members will be bound by this Agreement.

19 64. Binding Effect Of Agreement On Aggrieved Employees and State of California. The
20 Aggrieved Employees and the State of California, to the extent permitted by law, shall be deemed
21 by operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim
22 against Defendant or any of the Released Parties for any of the PAGA Claims and to be bound by
23 the release of the PAGA Released Claims during the PAGA Period as set forth in this Agreement.

24 65. Provisional Approval Of Settlement. Named Plaintiffs will file a motion in the
25 Actions requesting that the Court enter the Preliminary Approval Order shortly after complete
26 execution of this Agreement. Defendant will not oppose Class Counsel's motion for preliminary
27 approval of the settlement so long as the motion and supporting papers are consistent with the terms
28 of this Agreement. Class Counsel will provide Defendant's counsel at least 3 business days to

1 review, and provide comments to, the draft motion for preliminary approval of the settlement before
2 the motion and supporting papers are filed with the Court. Notwithstanding the foregoing,
3 Defendant may, without opposing the preliminary approval motion, advise the Court if Defendant
4 disputes any of the factual statements concerning the claims at issue included by the Named
5 Plaintiffs in the motion and supporting papers. Defendant's counsel will meet and confer with Class
6 Counsel regarding any disputed factual statements before notifying the Court of any disputes.

7 66. Non-Interference With Claims Procedure. The Parties and their counsel agree that
8 they will not advise, solicit, or otherwise encourage any Class Members to submit requests for
9 exclusion or objections to the settlement or to appeal from the Final Order or Final Judgment.
10 Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with
11 Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12 67. Final Order and Judgment. The Named Plaintiffs will request that the Court enter,
13 after the Settlement Hearing finally approving this Agreement, a Final Order and Judgment. Named
14 Plaintiffs will request that the Final Order and Judgment certify the Participating Class; find that
15 this Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the Class and
16 the Aggrieved Employees; list the employees (if any) who opted-out of the settlement; order that
17 the Participating Class Members release the Released Parties from the Released Claims; order that
18 the Aggrieved Employees and the State of California release the Released Parties from the PAGA
19 Claims as set forth in this Agreement (to the extent permitted by law); and require the Parties to
20 carry out the provisions of this Agreement.

21 68. Automatic Voiding Of Agreement If Settlement Not Finalized. If for any reason the
22 settlement set forth in this Agreement does not become final, the settlement will be null and void
23 and the orders, judgment, and dismissal to be entered pursuant to this Agreement shall be vacated,
24 and the Parties will be returned to the status quo prior to entering this Agreement with respect to the
25 Actions, as if the Parties had never entered into this Agreement, and the class certified pursuant to
26 this Agreement will be decertified for all purposes. In addition, in such event, the Agreement and
27 all negotiations, court orders, and proceedings relating to this Agreement shall be without prejudice
28 to the rights of any and all parties to this Agreement, and evidence relating to the Agreement and all

1 negotiations shall not be admissible or discoverable in the Actions or otherwise.

2 69. No Double Recovery. No person who, as of February 28, 2023, has already released,
3 assigned, or otherwise forfeited the claims asserted in the Action will be considered a Class Member
4 or be entitled to recover under this Agreement. Such persons will be excluded from the Class List.

5 70. No Publicity. The Named Plaintiffs and Class Counsel agree that they shall not
6 publicize the filing of the Actions, the Parties' settlement, this Agreement and its terms, or the
7 negotiations leading to this Agreement with anyone other than the Court, Class Members, or those
8 individuals necessary to effectuate the terms of the Agreement. The prohibition set forth in this
9 Paragraph 70 includes, but is not limited to: (i) publication by Named Plaintiffs or Class Counsel
10 on any website (including, without limitation, publishing on any Twitter account, Facebook, other
11 social media, or blog, or business website) of the amount or terms of the settlement, with or without
12 identifying information; and (ii) the submission of information to Verdicts & Settlements or any
13 other publication that summarizes the results of jury verdicts and settlements.

14 a. Notwithstanding the foregoing, Class Counsel may respond to questions
15 received from, and discuss any aspect of this Agreement with the Class Members or their legal
16 representatives, the Settlement Administrator, the Court, and representatives of the California Labor
17 and Workforce Development Agency.

18 b. Notwithstanding the forgoing, nothing in this Paragraph shall prohibit the
19 filing of information with the Court or the LWDA relating to the Settlement that is necessary to
20 effectuate this Agreement, or the online posting of documents relating to the Actions by the
21 Settlement Administrator as permitted by this Agreement, including the Judgment entered by the
22 Court.

23 c. The Named Plaintiffs and Class Counsel agree that all data and information
24 informally produced by Defendant in connection with the settlement of these Actions will be
25 maintained in confidence, and will not be shared with any other persons or entities.

26 71. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes
27 material changes to the material terms or conditions of Paragraphs 1 through 70 of this Agreement
28 that are not agreed to by the Parties, either Party shall have the right to terminate this Agreement, in

1 which case Defendant would not be obligated to make any payments to any Class Member, to Class
2 Counsel, or to the Named Plaintiffs. The Parties shall meet and confer in good faith and involve
3 mediator Louis Marlin as necessary before exercising such right.

4 72. Modification In Writing. This Agreement may be altered, amended, modified or
5 waived, in whole or in part, only in a writing signed by all signatories to this Agreement and
6 approved by the Court. This Agreement may not be amended, altered, modified or waived, in whole
7 or in part, orally.

8 73. Ongoing Cooperation. The Named Plaintiffs and Defendant will execute all
9 documents and perform all acts necessary and proper to effectuate the terms of this Agreement. In
10 the event the Parties are unable to reach an agreement on the form or content of any document
11 needed to implement the Settlement, or any supplemental provisions that may become necessary to
12 effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Mediator (Louis
13 Marlin) and, if still unable to resolve their dispute, the Court.

14 74. Notices. All notices, requests, demands, and other communications required or
15 permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered
16 personally or by first class mail to the Settlement Administrator approved by the Court and the
17 undersigned persons at their respective addresses as set forth below:

18 CLASS COUNSEL

19 CAPSTONE LAW APC

20 Raul Perez, Esq.

21 Robert Drexler, Esq.

22 Molly DeSario, Esq.

23 Jonathan Lee, Esq.

24 1875 Century Park East, Suite 1000

25 Los Angeles, California 90067

26 Telephone: (310) 556-4811

27 JAMES HAWKINS APLC

28 James Hawkins, Esq.

Christina Lucio, Esq.

9880 Research Drive, Suite 200

Irvine, California 92618

Telephone: (949) 387-7200

COUNSEL FOR DEFENDANT

RUTAN & TUCKER, LLP
Maria Z. Stearns, Esq.
Kenne J. Zielinski, Esq.
Jonas Trevethan, Esq.
18575 Jamboree Road, 9th Floor
Irvine, California 92612
Telephone: (714) 641-5100

75. Binding on Successors. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and legal representatives.

76. Entire Agreement. This Agreement constitutes the full, complete, and entire understanding, agreement, and arrangement between the Named Plaintiffs, the Class Members, and the Aggrieved Employees, on the one hand, and Defendant, on the other hand, with respect to the settlement of the Actions. This Agreement supersedes any and all prior oral or written understandings, agreements, and arrangements between the Parties with respect to the settlement of the Actions. Except for those set forth expressly in this Agreement, there are no other agreements, covenants, promises, representations or arrangements between the Parties with respect to the settlement of the Actions, the PAGA Claims, and the Released Claims against Defendant and the Released Parties. The Parties explicitly recognize California Civil Code section 1625 and California Code of Civil Procedure section 1856(a), which provide that a written agreement is to be construed according to its terms, and may not be varied or contradicted by extrinsic evidence, and agree that no such extrinsic oral or written representations or terms shall modify, vary, or contradict the terms of this Agreement.

77. Execution In Counterparts. This Agreement may be signed in one or more counterparts. All executed copies of this Settlement Agreement, and photocopies of the Agreement (including DocuSign, facsimile and e-mail copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

78. Captions. The captions, section numbers, and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope

1 or intent of the provisions of this Agreement.

2 79. Governing Law. This Agreement shall be interpreted, construed, enforced, and
3 administered in accordance with the laws of the State of California, without regard to conflict of law
4 rules.

5 80. Reservation Of Jurisdiction. Notwithstanding the dismissal of the Actions and entry
6 of the Final Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting and
7 enforcing the terms of this Agreement.

8 81. Mutual Preparation. The Parties have had the full opportunity to negotiate the terms
9 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
10 against one Party than another merely by virtue of the fact that it may have been prepared by counsel
11 for one of the Parties, it being recognized that, because of the arms-length negotiations between the
12 Parties, all Parties have contributed to the preparation of this Agreement.

13 82. Representation and Warranties. Class Counsel and the Named Plaintiffs represent
14 and warrant to Defendant that they are not aware of any attorneys beyond those named as Class
15 Counsel who have claims for fees arising out of the Actions or the Settlement contemplated by this
16 Agreement.

17 83. Authorization to Act. Each Party to this Agreement covenants and warrants that (a)
18 such Party has full power and authority to enter into and consummate all transactions contemplated
19 by this Agreement and have duly authorized the execution, delivery, and performance of this
20 Agreement; and (b) the person executing this Agreement for such Party has the full right, power,
21 and authority to enter into this Agreement on behalf of such Party, and the full right, power, and
22 authority to execute any and all necessary instruments in connection with the Settlement, and to
23 fully bind such Party to the terms and obligations of this Agreement.

24 84. Representation By Counsel. The Parties acknowledge that each of them has been
25 represented by their respective counsel throughout all negotiations that preceded the execution of
26 this Agreement, and that this Agreement has been executed with the consent and advice of their
27 respective counsel. Further, the Named Plaintiffs and Class Counsel warrant and represent that there
28 are no liens on the Settlement Agreement, and that after entry by the Court of the Final Order and

1 Judgment, the Settlement Administrator may distribute funds to Participating Class Members,
2 Aggrieved Employees, Class Counsel, the LWDA, the Settlement Administrator, and the Named
3 Plaintiffs as provided by this Agreement.

4 85. Representation By The Named Plaintiffs. The Named Plaintiffs agree not to request
5 to be excluded from the Class and not to object to any terms of this Agreement. Any such request
6 by the Named Plaintiffs for exclusion or objection shall be void and of no force or effect.

7 86. Additional Attorneys' Fees and Costs. No Participating Class Member, Aggrieved
8 Employee, or Class Counsel, or any other attorney acting for any Participating Class Member or
9 Aggrieved Employee may recover or seek to recover any amounts for fees, costs, or disbursements
10 arising from the Actions or the Gross Settlement Amount from the Released Parties except as
11 expressly provided for in this Agreement.

12 87. No Reliance on Representations. The Parties have made such investigations of the
13 facts and the law pertaining to the matters described in this Agreement as they deem necessary, and
14 have not relied, and do not rely, on any statement, promise, or representation of fact or law, made
15 by any other Party, or any of their agents, employees, attorneys, or representatives, with regard to
16 any of their rights or asserted rights, or with regard to the advisability of making and executing this
17 Agreement, or with respect to any such matters. No representations, warranties, or inducements
18 have been made to any Party concerning this Agreement.

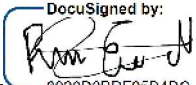
19 88. No Collateral Attack. This Agreement will not be subject to collateral attack by any
20 Class Member or any recipient of the Class Notice after the Final Order and Dismissal. Such
21 prohibited collateral attacks shall include but not be limited to claims that the Class Member failed
22 for any reason to receive timely notice of the procedure for disputing the calculation of their
23 Individual Settlement Payment, or for opting out of the Settlement.

24 IT IS SO AGREED:
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PLAINTIFF ROSA ESMERALDA ESTEBAN MARTINEZ

Dated: 9/1/2023

By: 
8020D2BDF95B4DC...
Rosa Esmeralda Esteban Martinez
Named Plaintiff

PLAINTIFF MIRIAN GONZALEZ ORELLANO

Dated: 9/1/2023

By: 
D2FE2606F407454...
Mirian Gonzalez Orellano
Named Plaintiff

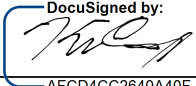
PLAINTIFF KELLY STOVER

Dated: 9/7/2023

By: 
49431B85582645F...
Kelly Stover
Named Plaintiff

Dated: 9/18/2023

DEFENDANT PACIFIC CATCH, INC.

By: 
AFCD4CC2640A40F...
Title: CEO

1 APPROVED AS TO FORM ONLY AND AGREE TO BE
2 BOUND BY PARAGRAPH 70:

3 Dated: 9/1/2023

CAPSTONE LAW APC

4
5 By: 

Molly DeSario
Attorney for Plaintiffs

6
7 Dated: 09/07/2023

JAMES HAWKINS APLC

8
9 By: 

Christina Lucio
Attorney for Plaintiffs

10
11 APPROVED AS TO FORM ONLY:

12
13 Dated: 9/19/2023

RUTAN & TUCKER, LLP

14
15 By: 

Maria Z. Stearns
Attorney for Defendant

Exhibit A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ROSA ESMERALDA ESTEBAN MARTINEZ
and MIRIAN GONZALEZ ORELLANO, as
aggrieved employees pursuant to the Private
Attorneys General Act (“PAGA”), on behalf of
the State of California and other aggrieved
employees,

Plaintiffs,

v.

PACIFIC CATCH, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 22CV393580

ASSIGNED FOR ALL PURPOSES TO:
HON. SUNIL R. KULKARNI, DEPT. 1

NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT AND FINAL
FAIRNESS HEARING

YOU MAY BE ENTITLED TO BENEFITS FROM THIS SETTLEMENT. YOUR ESTIMATED CLASS MEMBER SETTLEMENT PAYMENT IS \$ [REDACTED] AND YOUR ESTIMATED PAGA SETTLEMENT PAYMENT IS \$ [REDACTED]. PLEASE CONTINUE READING TO LEARN HOW THIS SETTLEMENT AFFECTS YOUR RIGHTS.

Notice is hereby given that a proposed Settlement Agreement And Stipulation To Resolve Class Action And PAGA Claims (the “**Settlement**” or “**Settlement Agreement**”) has been reached between plaintiffs Rosa Esmeralda Esteban Martinez and Mirian Gonzalez Orellano in *Martinez et al. v. Pacific Catch, Inc.*, Santa Clara County Superior Court Case No. 22CV393580 (the “**Action**”) (collectively “**Plaintiffs**”) on the one hand, and Defendant Pacific Catch, Inc. (“**Defendant**”) on the other hand.

The Action is a class action and PAGA representative action lawsuit. Plaintiffs and Defendant have reached a settlement of the Action, and the Santa Clara County Superior Court (the “**Court**”) has granted preliminary approval of the settlement.

The proposed Settlement will resolve all Released Claims made against Defendant and other Released Parties (defined below and in the Settlement Agreement) on behalf of all “**Class Members**” or the “**Class**,” defined as: all non-exempt, hourly-paid employees of Pacific Catch, Inc. (“**Pacific Catch**”) employed in California at a restaurant location at any time from January 24, 2018 through February 28, 2023 (the “**Class Period**”). If you satisfy this criteria, you are eligible to participate in the class action settlement.

The proposed Settlement will also resolve all PAGA Claims made against Defendant and other Released Parties on behalf of all “**Aggrieved Employees**,” defined as: all non-exempt, hourly-paid employees of Pacific Catch employed in California at a restaurant location at any time from November 18, 2020 through February 28, 2023 (the “**PAGA Period**”). Any Class Member who worked during the PAGA Period will be considered an Aggrieved Employee and therefore, regardless of how they respond to this Notice, all Aggrieved Employees will (i) receive their portion of the PAGA settlement payment; and (ii) release all PAGA Claims against the Released Parties as set forth in the Settlement Agreement.

A. PURPOSE OF THIS NOTICE

The Court has ordered that this Class Notice be sent to you because Defendant's records reflect that you are a potential member of the Class, as defined above.

The purpose of this Notice is to: (a) provide a brief description of the Action; (b) inform you of the proposed Settlement; and (c) discuss your rights and options with respect to the Action and the Settlement.

B. DESCRIPTION OF THE ACTION

The Action was filed by Plaintiffs on behalf of all non-exempt, hourly-paid employees who worked at Pacific Catch during the Class Period. As alleged in the Action, Plaintiffs claim that Class Members were wrongfully denied wages and overtime compensation, meal and rest breaks, accurate wage statements, and other rights guaranteed under the California Labor Code.

The Action asserts class allegations against Defendant for: (1) failure to pay overtime; (2) failure to pay minimum wages; (3) failure to provide and record meal periods; (4) failure to authorize and permit rest periods; (5) failure to provide and maintain compliant wage statements; (6) failure to pay wages during employment; (7) failure to pay wages upon termination; (8) failure to pay all gratuities owed; (9) failure to provide one day's rest in seven; (10) failure to reimburse necessary business expenses; (11) failure to provide written notice of material terms of employment; (12) unlawful business practices; and (13) unfair business practices.

The Court has made no ruling on the merits of Plaintiffs' claims or Defendant's defenses. The Court has, however, preliminarily approved the proposed Settlement between Plaintiffs and Defendant. The Court will decide whether to give final approval to the Settlement at a hearing scheduled for _____, 2023, at _____:_____ a.m., in Department 1 of the Santa Clara County Superior Court, Downtown Superior Courthouse, located at 191 North First Street, San Jose, CA 95113.

Attorneys for the Class ("**Class Counsel**") in the Action are:

CAPSTONE LAW APC
Raul Perez, Esq.
Robert Drexler, Esq.
Molly DeSario, Esq.
Jonathan Lee, Esq.
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: 1 (888) 436-0868

Defendant's counsel in the Action are:

RUTAN & TUCKER, LLP
Maria Z. Stearns, Esq.
Kenneth J. Zielinski, Esq.
Jonas Trevethan, Esq.
18575 Jamboree Road, 9th Floor
Irvine, California 92612
Telephone: (714) 641-5100

C. YOUR OPTIONS

If you fit within the above description of the Class, you have several options. Your rights regarding each option, and the procedure you must follow to select each option, are explained below.

1. OPTION 1: Do Nothing and Remain a Member of the Class and Participate in the Class Settlement.

If you want to participate in the Settlement and receive a Participating Class Member Payment (defined below), DO NOT TAKE ANY ACTION. You will automatically be included in the Settlement and will receive a Participating Class Member Payment and if you are an Aggrieved Employee, a portion of the PAGA Payment as detailed below. If you move, make sure you contact the Settlement Administrator at the following address or phone number:

SETTLEMENT ADMINISTRATOR
[INSERT ADDRESS AND PHONE NUMBER]

YOUR ESTIMATED PARTICIPATING CLASS MEMBER PAYMENT IS \$ [REDACTED]. This amount is based on the number of workweeks during which you worked during the Class Period, based on the best information available, which is [REDACTED] workweeks. Your estimated share of the Net Class Settlement Amount was calculated by dividing the number of workweeks you worked in a non-exempt, hourly-paid position during the Class Period by the total number of workweeks worked by all Class Members during the Class Period for Pacific Catch in California and multiplying this figure by the Net Class Settlement Amount (the Gross Settlement Amount of \$1,800,000 minus Class Counsel's attorneys' fees and costs, any enhancement payments to Plaintiffs, any general release payments to Plaintiffs, the PAGA Amount, and settlement administration fees and costs).

If you believe the number of workweeks stated above is incorrect and you wish to challenge it, you must send the enclosed dispute form to the Settlement Administrator, stating what you believe is the correct number of workweeks, and providing any documents or other back-up you have for what you believe is the correct number. This form must be postmarked no later than [date]. You must also provide your name and telephone number. The Parties will have the right to respond to any challenge by a Class Member. The Settlement Administrator will resolve the challenge and make a final and binding determination without hearing or right of appeal. The Settlement Administrator's determination will be subject to review by the Court at the time of the final approval hearing. If you want confirmation that your correspondence has been received by the Settlement Administrator, you may send your letter by certified U.S. Mail with a return receipt request.

If you choose to participate in the Class Settlement, you will be bound by all the terms set forth in the Class Settlement, including a full release of claims for the matters being settled in the Action.

2. OPTION 2: Opt Out of the Class and Receive Nothing Under the Class Settlement.

If you do not want to remain a member of the Class, you can request exclusion from the Class (i.e., "opt out"). In order to opt out of the Class and the Settlement, you must mail a written, signed request for exclusion to the Settlement Administrator at [insert Settlement Administrator's address], such that it is postmarked no later than [date]. This request for exclusion must contain the following information:

- (a) your printed full name (and any other names used while employed by Defendant);
- (b) a clear reference to the Action; and
- (c) language indicating that you want to opt out of the Settlement (for example: "I want to opt out of the class action settlement described in the Class Notice I received.").

This request must be **signed** by you.

If you opt out of the Class, you will no longer be a member of the Class, you will be barred from participating in the class action portion of the Settlement, and you will not receive a Participating Class Member Payment. By opting out of the Class, you will retain whatever individual rights or claims you may have, if any, against Defendant, and you will be free to pursue them on an individual basis, if you choose to do so.

If you opt-out of the Settlement, and you are an Aggrieved Employee, you will still receive a payment representing PAGA penalties as an Aggrieved Employee, in which case you would still be bound by the PAGA portion of the Settlement.

3. OPTION 3: Object to the Settlement.

If you are a Class Member who does not opt out of the Class, you may object to the Settlement, personally or through an attorney, by submitting your objection to the Settlement Administrator, at [insert Settlement Administrator's address]. Your objection **must be signed** and must include the following:

- (a) your printed full name (and any other names used while employed by Defendant);
- (b) your full current address;
- (c) a clear reference to the Action;
- (d) language clearly explaining why you believe the Settlement is unfair or why you are objecting to it; and
- (e) a statement whether you intend to appear at the final approval hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address and telephone number.

All written objections must be postmarked on or before [date]. Failure to submit a written objection does not waive any Class Member's right to appear at the Final Fairness Hearing to object orally to the Settlement. If you object to the Settlement and if the Court approves the Settlement as set forth in the Settlement Agreement, you will be bound by the terms of the Settlement in the same way as a Class Member who does not object.

D. SUMMARY OF TERMS OF SETTLEMENT

The principal terms of the Settlement reached between Plaintiffs and Defendant are summarized below.

1. Settlement Terms

The Settlement provides that (a) Defendant will pay \$1,800,000 (the "**Gross Settlement Amount**") to resolve all claims asserted in the Action, including Plaintiffs' enhancement awards, Plaintiffs' general release payments, Class Counsel's attorneys' fees and costs, and the costs of settlement administration, as described more fully below; and (b) Defendant will stipulate to the certification of the Class for settlement purposes only, conditioned upon the Court granting final approval of the Settlement.

- Attorneys' Fees and Costs. Class Counsel will apply to the Court for an award of attorneys' fees of no more than 33^{1/3}% of the Gross Settlement Amount, which, unless escalated pursuant to the Settlement Agreement, will amount to \$600,000.00. In addition, Class Counsel will seek reimbursement of actual costs of no more than \$25,000, as well as settlement administration costs not to exceed the amount of \$25,000. The attorneys' fees and costs will be paid out of the Gross Settlement Amount.
- Named Plaintiff Enhancement Award. Plaintiffs will request enhancement awards of

\$5,000 each, for a total of \$10,000 in enhancement awards. The enhancement awards will be paid out of the Gross Settlement Amount.

- Named Plaintiff General Release Payment. Plaintiffs will request general release payments of \$5,000 each, for a total of \$10,000 in general release payments. The general release payments will be paid out of the Gross Settlement Amount.
- PAGA Amount. Plaintiffs will request a payment pursuant to the Private Attorneys General Act (“PAGA”) of \$100,000, of which 75% (or \$75,000) will be paid to the Labor & Development Workforce Agency (“LWDA”), and 25% (or \$25,000) will be paid to Aggrieved Employees, as defined by the Settlement Agreement. This PAGA payment will be paid out of the Gross Settlement Amount.
- Payments To Participating Class Members. After the deductions from the Gross Settlement Amount, the remaining amount of approximately \$ [REDACTED] will remain to be distributed to Participating Class Members on a *pro rata* basis based on each Class Member’s workweeks worked as a non-exempt employee during the Class Period.
- Payments To Aggrieved Employees. Aggrieved Employees will also receive a *pro rata* portion of \$25,000 (the “PAGA Payment”), based on the formula set forth above, limited to workweeks worked during the PAGA Period. The PAGA Payment represents penalties under the Labor Code Private Attorneys General Act. Class Members who opt out of the Settlement and are Aggrieved Employees will still receive their portion of the PAGA Payment and will release all PAGA Claims against the Released Parties.

2. Settlement Payment To You

Section C of this Notice includes the estimated amount that you are entitled to receive under the Class Settlement. The individual settlement payments to Class Members will vary based on a number of factors, including the number of Class Members who participate. If you change your address, please notify the Settlement Administrator.

3. Taxes

For purposes of this Settlement, Participating Class Member Payments shall be reported as follows: (i) 20% of the amount distributed to each Participating Class Member will be considered wages, and will be reported as such to each Participating Class Member on a W-2 Form; (ii) 40% of the amount distributed to each Participating Class Member will be considered interest on the unpaid wages, and will be reported as such to each Participating Class Member on an IRS Form 1099; and (iii) 40% of the amount distributed to each Participating Class Member will be considered statutory penalties, and will be reported as such to each Participating Class Member on an IRS Form 1099. The PAGA Payments distributed to each Aggrieved Employee will be considered penalties and will be reported on an IRS Form 1099. Prior to mailing your Individual Settlement Payment, the Settlement Administrator will calculate and deduct from your Individual Settlement Payment an amount necessary to pay the required withholdings and taxes, including all payroll taxes. The Settlement Administrator will remit that money to the appropriate governmental agencies. The Settlement Administrator will also issue you appropriate tax forms, including an IRS Form 1099 and W-2 Form. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

4. Release

The Settlement provides that each Class Member who does not opt out of the Settlement fully releases and discharges Defendant and the Released Parties from, for the duration of the Class Period, any and all claims against Defendant and the Released Parties that arise from the facts, matters, transactions or occurrences alleged in the Action or that could have been alleged in the Action based on such facts. Without limiting the foregoing, and in addition to the foregoing, the Released Claims include claims failure to pay minimum wages including, but not limited to, pre and post shift work; failure to pay overtime compensation; failure to provide meal periods and rest breaks or premium payments; failure to provide and maintain complete and accurate itemized wage statements as required by the California Labor Code; failure to maintain payroll records; untimely payment of wages during employment and at the time of termination; failure to reimburse business expenses; failure to provide notice of material terms of employment; failure to properly pay tips; failure to provide one day's rest in seven; violations of California Labor Code §§ 201, 201.3, 202, 203, 204, 204.1, 204.2, 204.11, 205, 205.5, 210, 216, 218.5, 218.6, 223, 226, 226.3, 226.7, 256, 351, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198, 2802, 2810.5; related violations of the applicable California Wage Orders; violations of all related or corresponding federal laws; and violations of California Business and Professions Code section 17200, et seq in connection with the alleged Labor Code violations alleged (or that could be alleged based on the facts pled) in the Actions (the "**Released Claims**").

Moreover, in exchange for the PAGA Amount recited in this Agreement, all Aggrieved Employees (to the extent permitted by law), and on behalf of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns will, upon payment of the Gross Settlement Amount and the Employer's Taxes necessary to effectuate the settlement to the Settlement Administrator, forever completely release and discharge Defendant and each of the Released Parties from the PAGA Claims that arose during the PAGA Period. The Aggrieved Employees and the State of California will be deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim against Defendant and any of the Released Parties for the PAGA Claims that arose during the PAGA Period, to the extent permissible by law.

The **Released Parties** include Pacific Catch, Inc. and its respective current and former parents, predecessors or successors, holding companies, affiliated companies or entities, owners, investors, shareholders, members, partners, officers, directors, managers, employees, and agents, attorneys, insurers, and representatives.

Participating Class Members will be barred from prosecuting any and all Released Claims released pursuant to the Settlement Agreement against the Released Parties. A complete statement of the release of claims is contained in the Settlement Agreement and is binding on all Class Members who do not opt out of the Settlement. A copy of the Settlement Agreement may be obtained from the Settlement Administrator.

5. Conditions Of The Settlement

The Settlement is conditioned upon the Court entering an Order at or following the Final Fairness Hearing approving the Settlement as fair, reasonable, and adequate and in the best interests of the Class.

6. No Admission Of Liability

Defendant does not admit any wrongdoing or liability, and specifically denies any liability or wrongdoing. The proposed Settlement reflects a compromise of disputed claims and does not mean that Defendant violated any state wage-and-hour laws or is liable for any of the allegations made by Plaintiffs.

E. FAIRNESS HEARING ON PROPOSED SETTLEMENT

You are not required to attend the Final Fairness Hearing or file an objection, although you may do both. The Final Fairness Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, costs of administration, the enhancement awards to Plaintiffs, the general release payments to Plaintiffs, and Class Counsel's request for attorneys' fees and costs will be held on _____ a.m., in Department 1 of the Santa Clara County Superior Court, Downtown Superior Courthouse, located at 191 North First Street, San Jose, CA 95113.

The Final Fairness Hearing may be continued to another date without further notice. If you plan to attend the Final Fairness Hearing, you may contact Class Counsel to confirm the date and time.

Any Class Member who does not object in the manner provided above shall be deemed to have approved the Settlement and to have waived any objections, and shall be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, the plan of distribution, the payment of attorneys' fees and costs, the administration process, the enhancement award to Plaintiffs, the general release payment to Plaintiffs, or any other aspect of the Settlement. If the Settlement is not approved, the Action will continue to be prepared for class certification, trial, or other judicial resolution.

F. ADDITIONAL INFORMATION

This Class Notice only summarizes the Action, the Settlement, and related matters. You may inspect the Court files at the Santa Clara County Superior Court, Downtown Superior Courthouse, located at 191 North First Street, San Jose, CA 95113, from 8:30 a.m. to 1:30 p.m., Monday through Thursday, or from 8:30 a.m. to 12:00 p.m., on Fridays, except Court holidays. Alternatively, you can view the case records online at the court's website: <https://portal.sccourt.org/search>. For the *Martinez et al. v. Pacific Catch, Inc.* case, enter the Case Number 22CV393580 into the "Case Number Search" search bar, and click "Search" to view the case record.

Any questions regarding this Class Notice or the Action may be directed to the Settlement Administrator at [insert Settlement Administrator's address and telephone number]. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact Class Counsel at the address and telephone number set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.