

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Crescencio Cruz (“Plaintiff”), as an individual and on behalf of all others similarly situated, on one hand, and Defendant Holland America Flowers, LLC (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Jonathan Fraser Light, Jamie N. Stein, and Brier Miron Setlur of LightGabler.

On November 5, 2021, Plaintiff filed a Class Action Complaint against Defendant in San Luis Obispo Superior Court, in the matter entitled *Crescencio Cruz v. Holland America Flowers, LLC*, Case No. 21CV-0620 (the “Action”). On January 10, 2022, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”). The FAC alleges the following causes of action: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) meal period violations; (iv) rest period violations; (v) wage statement penalties; (vi) waiting time penalties; (vii) unfair competition; and (viii) civil penalties under the Private Attorneys General Act (“PAGA”).

Defendant denies the claims raised in the Action and asserts that its wage and hour practices are proper and legal. Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees who worked for Defendant Holland America Flowers, LLC in California from May 11, 2017, through the date of preliminary approval of the settlement (“Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved, does not become Final as defined below, or is terminated or materially modified without agreement of the Parties, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

Additionally, the “PAGA Aggrieved Employees” shall be defined as:

All current and former non-exempt employees who worked for Defendant Holland America Flowers, LLC in California from November 5, 2020, through the date of preliminary approval of the settlement (the “PAGA Period”).

2. **Release by Settlement Class Members and Plaintiff.** Upon the Effective Date (as defined below) and upon the complete funding of the Maximum Settlement Amount, Plaintiff and all

Settlement Class Members (except those who opt out of the non-PAGA claims) will fully release and discharge Defendant, and all of its present and former owners, officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Defendant (collectively the “Released Parties”), as follows:

- A. Settlement Class members will release all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to pay all minimum wages; (b) failure to pay all overtime wages; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; and (h) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Class Released Claims”). The period of the Class Released Claims shall extend to the limits of the Class Period.
- B. Release by PAGA Aggrieved Employees. Plaintiff and all PAGA Aggrieved Employees, regardless if they opt-out, will release and discharge the Released Parties from liability for all claims under the PAGA based on the factual allegations alleged in the FAC, that arose during the PAGA Period (“Released PAGA Claims”). It is understood and acknowledged that PAGA Aggrieved Employees receiving a share of the PAGA Amount as set forth in Paragraph 4.B.iv. will be issued a check for their share of the PAGA Amount and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph. The PAGA Release is binding upon Plaintiff and all PAGA Aggrieved Employees upon Court approval and payment of the PAGA Amount as set forth in Paragraph 4.B.iv.
- C. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff has agreed to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims, and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Nothing contained herein shall constitute a release of any rights or claims that cannot be waived as a matter of law (including but not limited to claims arising under workers' compensation laws). Nor shall anything contained herein be construed to exclude the filing of an administrative charge or complaint with the Equal Employment Opportunity Commission or National Labor Relations Board, or participation in an administrative investigation or proceeding.

3. **Maximum Settlement Amount.** As consideration and subject to the express condition precedent that this Settlement Agreement becomes Effective (as defined below), Defendant agrees to pay a non-reversionary "Maximum Settlement Amount" of Seven Hundred Seventy-Five Thousand Dollars and Zero Cents (\$775,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
- B. The Settlement shall become effective upon the Court's signing of an Order granting final approval of the Settlement (the "Effective Date"). The Maximum Settlement Amount shall be deposited with the Settlement Administrator no later than thirty (30) days after the Effective Date.
- C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Fourteen Thousand Dollars and Zero Cents (\$14,000.00);
 - (3) Up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for Plaintiff's Class Representative Enhancement Payment in recognition of his contributions to the Action and his service to the Settlement Class. If Plaintiff's request for his enhancement payment is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members;
 - (4) Up to one-third of the Maximum Settlement Amount in Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). If Class Counsel's request for attorneys' fees and/or reimbursement of litigation costs is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members; and
 - (5) Forty Thousand Dollars and Zero Cents (\$40,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such

penalties, or Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%), or Ten Thousand Dollars and Zero Cents (\$10,000.00) will be payable to the Settlement Class as the “PAGA Amount.”

- D. Defendant’s share of employer payroll taxes on the amounts of the settlement attributable as W-2 wages as provided in Section 4(D), below, shall be paid by Defendant separately from, and in addition to, the Maximum Settlement Amount.
- E. **Escalator Clause.** Defendant represents that there are an estimated 27,153 total work weeks worked by the Settlement Class members between May 11, 2017 to September 28, 2022. If the number of work weeks worked from May 11, 2017 to September 28, 2022 exceeds this figure by more than 10% (i.e., if there are 29,869 or more work weeks), Defendant shall increase the Maximum Settlement Amount on a proportional basis (i.e., if there was a 12% increase in the work weeks from May 11, 2017, to September 28, 2022, Defendant shall increase the Maximum Settlement Amount by 12%).

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment (“Individual Settlement Payment”) from the Settlement. Individual Settlement Payments will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Class Representative Enhancement Payment, payment to the Labor and Workforce Development Agency, and the Settlement Administrator’s fees and expenses for administration. The remaining amount shall be known as the “Net Settlement Amount.”
- B. Payments from the Net Settlement Amount. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Individual Settlement Payment based on the following formula:
 - i. Payments to all participating Settlement Class members: Eighty percent (80%) of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member’s proportionate work weeks worked during the Class Period, and will be calculated by multiplying 80% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of work weeks worked during the Class Period, and the denominator of which is the total work weeks worked by all participating Settlement Class members during the Class Period.
 - ii. Waiting Time Amount: Fifteen Percent (15%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” Each participating Settlement Class member whose employment with Defendant

ended at any time from May 11, 2018, to the date of preliminary approval of this Settlement, shall receive an equal share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Defendant ended at any time from May 11, 2018, to the date of preliminary approval of this Settlement.

- iii. Wage Statement Amount: Five percent (5%) of the Net Settlement Amount shall be designated as the “Wage Statement Amount.” Each participating Settlement Class member who was employed by Defendant at any time from May 11, 2020, to the date of preliminary approval of this Settlement shall receive a portion of the Wage Statement Amount proportionate to the number of work weeks that he or she worked during the period from May 11, 2020, to the date of preliminary approval of this Settlement, and which will be calculated by multiplying 5% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of work weeks worked from May 11, 2020 to the date of preliminary approval of this Settlement, and the denominator of which is the total number of work weeks worked by all participating Settlement Class members during the time period from May 11, 2020, to the date of preliminary approval of this Settlement.
- iv. PAGA Amount: Each Settlement Class member who was employed by Defendant at any time during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Maximum Settlement Amount that has been designated as the “PAGA Amount,” proportionate to the number of work weeks that he or she worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member’s number of work weeks worked during the PAGA Period, and the denominator of which is the total number of work weeks worked by all Settlement Class members during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action settlement).

- C. Within ten (10) calendar days following Defendant’s deposit of the Maximum Settlement Amount and its share of employer payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate the Individual Settlement Payments and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail the Individual Settlement Payments, less applicable taxes, and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant’s counsel. After the Individual Settlement Payments are mailed to Settlement Class members, the Settlement Administrator shall distribute the amounts approved for

Class Counsel's attorneys' fees and litigation costs, Plaintiff's Enhancement Payment, payment to the LWDA for its share of PAGA civil penalties, and settlement administration expenses.

- D. For purposes of calculating applicable taxes and withholdings, each Individual Settlement Payment shall be allocated as follows: one-third (1/3) wages, one-third (1/3) penalties, and one-third (1/3) interest. Any payment from the PAGA Amount shall be classified as 100% penalties. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each member of the Settlement Class who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Maximum Settlement Amount, which is currently estimated to be Two Hundred Fifty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$258,333.33). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), from the Maximum Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed, and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Individual Settlement Payment

as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking permission to pay up to Fourteen Thousand Dollars and Zero Cents (\$14,000.00) for its services from the Maximum Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Individual Settlement Payments and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after Individual Settlement Payments have been mailed to all participating Settlement Class members. The Settlement Administrator shall also give notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC as Class Counsel;
- C. Appointing Crescencio Cruz as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet, which is comprised of the Class Notice and Notice of Estimated Settlement Award, and which is attached hereto as **Exhibits 1** and **2**, respectively, and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within fifteen (15) business days after entry of an order preliminarily approving this Settlement Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, and workweek information for each Settlement Class member employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format reasonably satisfactory to the Settlement Administrator.

- B. Within ten (10) business days from receipt of the information provided for in Paragraph 9(A), the Settlement Administrator shall: (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet in English and Spanish to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
- i. The Notice Packet shall state that a Settlement Class member who wishes to exclude themselves from the settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the settlement, except a Request for Exclusion not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members employed during the PAGA Period, whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time during the PAGA Period and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will be bound by the Released PAGA Claims.
- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the settlement or opt out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.

- iii. Notwithstanding any other provisions of this Settlement Agreement, in the event that ten percent (10%) or more of the total Settlement Class members exclude themselves and opt out of the settlement, Defendant may, in its sole discretion, unilaterally withdraw from and terminate the settlement no later than five (5) days prior to the date of the Final Approval Hearing. In the event of Defendant's withdrawal, no party may use the fact that the Parties agreed to the Settlement Agreement for any reason. In the event that Defendant elects to terminate this settlement under this provision, Defendant shall pay all the Administrative Costs incurred by the Settlement Administrator up to that point.
- D. Objections. Settlement Class members who do not request exclusion may object to this Settlement Agreement by submitting a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel via e-mail) by the Response Deadline. All objections must contain: 1) the objecting Settlement Class member's full name, current address and last four digits of the Social Security number, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; 2) a statement of the Settlement Class member's objections and the factual and legal bases for same, include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence, and 3) be postmarked no later than the Response Deadline. Settlement Class members may also appear at the final approval hearing to orally object, even if they have not submitted a written objection.
- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all the information that was used from Defendant's records in order to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator, and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Payments under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Payment shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement

Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative enhancement payment, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the website of the Settlement Administrator.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the Settlement Class, or the settlement on their website, and shall not contact any reporters or media regarding the settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the

venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Jamie N. Stein, LightGabler, 760 Paseo Camarillo, Suite 300,
Camarillo, CA 93010; jstein@lightgablerlaw.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive,
Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com.

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

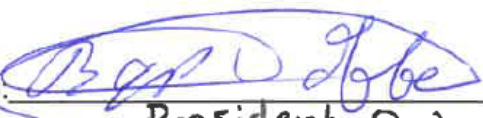
16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this settlement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED:

March 29, 2023

Defendant Holland America Flower, LLC

By: 
Its: President, Owner

DATED: Mar 27, 2023

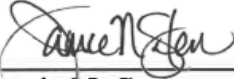
Plaintiff Crescencio Cruz

By: 
Crescencio Cruz (Mar 27, 2023 05:15 PDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

LIGHTGABLER

By: 
Jamie N. Stein
Attorneys for Defendant

DATED: 3/27/23

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

CRESCENCIO CRUZ, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

HOLLAND AMERICA FLOWERS, LLC, a California
limited liability company; and DOES 1 through 100,

Defendants.

Case No. 21CV-0620

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees who worked for Defendant Holland America Flowers, LLC in California from May 11, 2017, through <<PRELIM APPROVAL DATE>> (“Class Period”). Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The San Luis Obispo County Superior Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in the case of *Crescencio Cruz v. Holland America Flowers, LLC*, San Luis Obispo Superior Court Case No. 21CV-0620 (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Holland America Flowers, LLC’s (“Holland America”) records show that you were employed at Holland America in California as a non-exempt employee between May 11, 2017, through <<PRELIM APPROVAL DATE>> (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Crescencio Cruz (“Plaintiff”) brought this Action against Holland America, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Holland America in California at any time from May 11, 2017, through <<PRELIM APPROVAL DATE>>. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

Plaintiff alleges that Holland America failed to pay Settlement Class members for all earned minimum and overtime wages and failed to provide all required meal and rest periods to Settlement Class members. The Action also alleges that as a result of the unpaid minimum and overtime wages and unpaid meal and rest period premiums, Holland America failed to provide Settlement Class members with accurate and complete wage statements, and failed to timely pay all final wages at the time of separation of employment. As a result

of the foregoing alleged violations, Plaintiff alleges that Holland America engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Holland America denies that it has done anything wrong. Holland America denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Holland America, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff’s claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Holland America has concluded that it is in its best interests and the interests of Settlement Class members to settle the Action on the terms summarized in this Notice. After Holland America provided relevant information and documents to Class Counsel, the Settlement was reached after mediation and arm’s-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Holland America, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Holland America, your decision about whether to participate in the Settlement will not affect your employment. California law and Holland America’s policy strictly prohibit unlawful retaliation. Holland America will not take any adverse employment action against or otherwise retaliate, or discriminate, against any Settlement Class member because of the Settlement Class member’s decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class members: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Alexandra R. McIntosh amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Defendant Holland America: LIGHTGABLER Jamie N. Stein jstein@lightgablerlaw.com Brier Miron Setlur bsetlur@lightgablerlaw.com 760 Paseo Camarillo, Suite 300 Camarillo, California 93010 Tel: (805) 248-7208 Fax: (805) 248-7209 lightgablerlaw.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Holland America in California between May 11, 2017, through <<PRELIM APPROVAL DATE>>. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Holland America as described below.

Holland America has agreed to pay \$775,000.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Action, including payments to Settlement Class members, requested attorneys’ fees and expenses, settlement administration costs, PAGA civil penalties, and the Class Representative’s Enhancement Payment.

The following deductions from the Maximum Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$14,000.00 from the Maximum Settlement Amount to pay the settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Maximum Settlement Amount, which is estimated to be \$258,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$25,000.00 for verified costs Class Counsel incurred in connection with the Action.

Enhancement Payment to Class Representative. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$7,500.00 to compensate him for his service and extra work provided on behalf of the Settlement Class members.

PAGA Payment to State of California. \$30,000.00 will be paid to the California Labor & Workforce Development Agency (“LWDA”), representing 75% of the \$40,000.00 the parties have agreed to allocate to the settlement of Plaintiff’s claims on behalf of the Settlement Class members under the PAGA. The remaining \$10,000.00 will be payable to certain aggrieved employees as the “PAGA Amount,” as described below.

Calculation of Settlement Class Members’ Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$440,166.67 and will be divided as follows:

- (i) Payments to all Participating Settlement Class Members: Eighty percent (80%) of the NSA will be distributed to all participating Settlement Class members based on their proportionate number of workweeks worked during the Class Period, and which will be calculated by multiplying 80% of the NSA by a fraction, the numerator of which is the participating Settlement Class member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.
- (ii) Wage Statement Amount: Five percent (5%) of the NSA has been designated as the “Wage Statement Amount” and will be allocated to all participating Settlement Class members who were employed by Holland America at any time between May 11, 2020, to <<PRELIM APPROVAL DATE>> in proportion to the number of workweeks that he or she worked between May 11, 2020, to <<PRELIM APPROVAL DATE>>.
- (iii) Waiting Time Amount: Fifteen percent (15%) of the NSA shall be designated as the “Waiting Time Amount,” and shall be distributed equally to each participating Settlement Class member who separated their employment with Holland America between May 11, 2018, to <<PRELIM APPROVAL DATE>>.
- (iv) PAGA Amount: \$10,000.00 has been designated as the “PAGA Amount” and will be allocated to Aggrieved Employees who were employed by Holland America at any time from November 5, 2020, through <<PRELIM APPROVAL DATE>> (the “PAGA Period”) (regardless of whether they opt out of the Settlement Class) in proportion to the number of workweeks that he or she worked between November 5, 2020, through <<PRELIM APPROVAL DATE>>.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion. Settlement checks will be valid for 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be treated as follows: one-third (1/3) as “wages,” for which an IRS form W-2 will be issued; one-third (1/3) penalties and one-third (1/3) as interest, for which an IRS form 1099 will be issued. Any payment from the PAGA Amount shall be designated as 100% penalties. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Settlement Administrator, Holland America and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, and upon the complete funding of the Maximum Settlement Amount, each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will release Holland America, and all of its present and former owners, officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Holland America (collectively, the “Released Parties”) from all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to pay all minimum wages; (b) failure to pay all overtime wages; (c) failure to provide all meal periods in accordance with California law; (d) failure to authorize and permit all rest periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; and (h) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Class Released Claims”). This release shall run from May 11, 2017, through <<PRELIM APPROVAL DATE>>.

In addition, all Settlement Class members (whether or not they opt out) who worked for Holland America in California at any point during the PAGA Period will release the Released Parties from liability for all claims under the PAGA based on the factual allegations alleged in the FAC, that arose during the PAGA Period (the “Released PAGA Claims”).

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, the proportionate number of workweeks you worked between May 11, 2020, through <<PRELIM APPROVAL DATE>>, the proportionate number of workweeks you worked during the PAGA Period, and whether you ended your employment between May 11, 2018, through <<PRELIM APPROVAL DATE>>, as stated in the accompanying Notice of Estimated Settlement Payment. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Payment. Your award is based on the proportionate number of workweeks you worked during the Class Period, the proportionate number of workweeks you worked between May 11, 2020, through <<PRELIM APPROVAL DATE>>, the proportionate number of workweeks you worked during the PAGA Period, and whether you ended your employment between May

11, 2018, through <<PRELIM APPROVAL DATE>>. The information contained in Holland America's records regarding each of these factors, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Estimated Settlement Payment. If you disagree with the information in your Notice of Estimated Settlement Payment, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Payment. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, your signature, and a statement that you wish to be excluded from the class action settlement.

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the class action Settlement, and shall receive no benefits from the class action Settlement. However, all Settlement Class members who worked for Holland America during the PAGA Period, including those who opt out, will be bound by the PAGA portion of the Settlement and will receive a portion from the PAGA Amount. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you should mail a written objection to the Settlement Administrator. Your written objection should include your name, address, last four digits of your Social Security Number, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be in writing and must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 2 of the San Luis Obispo County Superior Court, located at 1050 Monterey Street, San Luis Obispo, California 93408. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Crescencio Cruz v. Holland America Flowers, LLC*, San Luis Obispo Superior Court Case No. 21CV-0620. You do not need to object in writing to be heard at the Final Approval Hearing.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 2 of the San Luis Obispo County Superior Court, located at 1050 Monterey Street, San Luis Obispo, California 93408. The Court also will be

asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Enhancement Payment to the Class Representative. The Final Approval Hearing may be postponed without further notice to the Settlement Class. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the San Luis Obispo County Superior Court, located at 1050 Monterey Street, San Luis Obispo, California 93408, during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, HOLLAND AMERICA, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **<<RESPONSE DEADLINE>>**. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON **<<PRELIM APPROVAL DATE>>.**

EXHIBIT 2

NOTICE OF ESTIMATED SETTLEMENT PAYMENT

CRESCENCIO CRUZ v. HOLLAND AMERICA FLOWERS, LLC
SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NO. 21CV-0620

Please complete, sign, date and return this Form to **<<ADMINISTRATOR CONTACT INFO>>** **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Payment:

According to Holland America Flowers, LLC's ("Holland America") records:

- (a) you worked [] workweeks for Holland America in California between May 11, 2017, through **<<PRELIM APPROVAL DATE>>**;
- (b) you worked [] workweeks for Holland America in California between May 11, 2020, through **<<PRELIM APPROVAL DATE>>**;
- (c) you worked [] workweeks for Holland America in California between November 5, 2020, through **<<PRELIM APPROVAL DATE>>**; and
- (d) your employment with Holland America **<<DID/DID NOT>>** end between May 11, 2018, through **<<PRELIM APPROVAL DATE>>**.

Based on the above, your Individual Settlement Payment is estimated at \$ [].

(IV) If you disagree with items (a), (b), (c), and/or (d) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Holland America's records, Holland America's records will control unless you are able to provide documentation that establishes otherwise, and that Holland America's records are mistaken. If there is a dispute about whether Holland America's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**