

INDIVIDUAL PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AND RELEASE AGREEMENT

This Individual Private Attorneys General Act Settlement and Release Agreement (“Agreement”) is made and entered into by Claimant Galdina De Jesus Benigno (“Benigno” or “Claimant”) and Respondents Northgate Gonzalez, Inc. and Northgate Gonzalez Markets, Inc. (collectively “Respondents” or “Company”) (together, the “Parties”).

RECITALS

A. **WHEREAS**, on January 19, 2022, Claimant filed a putative class action Complaint against Respondents in the Superior Court for the County of Orange, which was designated as Case No. 30-2022-01241579-CU-OE-CXC (“PAGA Case”), asserting claims for: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to timely pay wages during employment; (4) unlawful deduction from wages; (5) failure to provide meal periods; (6) failure to provide rest periods; (7) failure to provide accurate itemized wage statements; (8) failure to timely pay wages upon separation; (9) unreimbursed business expenses; and (10) unlawful business practices pursuant to Business and Professions Code section 17200 (the “PAGA Complaint”).

B. **WHEREAS**, on about January 24, 2022, Claimant filed a notice with the Labor and Workforce Development Agency under the California Private Attorneys General Act (California Labor Code section 2698 *et seq.*) (“PAGA”) asserting various alleged Labor Code and wage and hour violations, including California Labor Code sections 201, 202, 203, 210, 226(a) 1-2, 4-5, 9, 226.3, 226.7, 510, 512, 558, 1194, 1198, 2802, 6401, 6403, and Industrial Welfare Commission Order Nos. 4-2001, 7-2001, 8-2001, 9-2001, 16-2001 (“Wage Orders , 4, 7, 8, 9, and 16”), sections 3, 7, 11, and 12 which was also sent to Respondents (the “PAGA Letter”);

C. **WHEREAS**, on May 4, 2022, Claimant filed a First-Amended Complaint in the PAGA Case, adding a PAGA claim for civil penalties on a representative basis pursuant to California Labor Code Section 2698, *et seq.*, and predicated on violations of California Labor Code sections 201, 202, 203, 210, 221, 226, 226.3, 226.7 510, 512, 558, 1194, 1198, 2802 and Wage Orders 1, 4, 7, and 9, sections 3, 7, 11, and 12 (the “Amended PAGA Complaint”). Through the Amended PAGA Complaint, Claimant has asserted claims on behalf of herself, the State of California, and current and former employees of Respondents in California;

D. **WHEREAS**, on October 19, 2022, in the PAGA Case, the Court (1) ordered the case to final and binding arbitration; (2) Claimant’s individual claims to arbitration; (3) dismissed Claimant’s class and/or collective action claims, as well as her representative action claim for penalties pursuant to the PAGA; (4) stayed the Court Case and held it in abeyance, pending the conclusion of the final and binding arbitration of Claimants individual claims; and (5) vacating all dates pending in the PAGA Case. The case is currently in arbitration, Judicate West Arbitration Case Number S296364;

E. **WHEREAS**, Claimant resigned her employment and May 12, 2023, and her employment relationship with the Company ended on that day, May 12, 2023 (“Termination Date”);

F. **WHEREAS**, Respondents contend they have satisfied all of their obligations to Claimant and Respondents have paid all wages and benefits, including overtime, minimum wages, meal and rest period premiums, and reimbursement for any incurred business expenses, due and owing to Claimant and deny all of Claimant’s allegations in the Amended PAGA Complaint, and PAGA Letter;

G. **WHEREAS**, the Parties desire to fully and finally resolve and settle Claimant's individual PAGA claim arising out of Claimant's employment with and separation from Respondents and association with Respondents;

H. **WHEREAS**, Claimant does not seek to pursue a representative PAGA claim on behalf of other individuals;

NOW THEREFORE IN CONSIDERATION of the promises and covenants contained in this Agreement, Claimant and Respondents agree to the following:

1. **Definition of Released Parties:** References in this Agreement to "Released Parties" shall include Respondents and all of its current and former direct and indirect parents, subsidiaries, affiliated and related companies and entities, and all of their current and former officers, directors, employees, insurers, reinsurers, attorneys, and agents.

2. **Approval of PAGA Settlement And Dismissal Of Individual PAGA Claim As Condition Precedent:** In conjunction with this Agreement, the Parties are entering into a separate **JOINT Stipulation Requesting PAGA Settlement Approval And Dismissal Of PAGA Action** ("Individual PAGA Claim Settlement and Stipulation") by which the Parties resolve, settle and discharge Claimant's PAGA claim on an individual basis with prejudice and dismissing the remaining representative PAGA claim without prejudice subject to arbitrator approving the Individual PAGA Claim Settlement and Stipulation and Court affirming the Arbitrator's dismissal of Claimant's individual PAGA claim, with prejudice. This Agreement is contingent upon execution by the Parties, approval by the arbitrator and confirmation of the Court of the Individual PAGA Claim Settlement and Stipulation. The arbitrator's unconditional approval of the Individual PAGA Claim Settlement and Stipulation approving the PAGA settlement and dismissing the PAGA Case as set forth herein, and the Court confirming the same is an express condition precedent to Respondents' and Claimant's obligations under this Agreement (including, but not limited to, all payment obligations). If the Individual PAGA Settlement and Stipulation is not unconditionally approved by the Court, then: (1) this Agreement shall be null and void; (2) neither the Settlement nor any of the related negotiations or proceedings shall be of any force or effect; and (3) all Parties to the Settlement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

3. **Settlement Payment/Consideration:** In consideration for Claimant's agreement to settle and release her individual claim under the PAGA, Respondents agrees to pay FOUR HUNDRED EIGHTY-SIX DOLLARS AND NINETY-ONE CENTS (\$486.91) to settle and release Claimant's individual PAGA claim, of which: (1) \$365.18 (representing 75% of said \$486.91) will go to the Labor & Workforce Development Agency ("LWDA"); and (2) \$121.73 will be payable to Claimant and shall represent payment for PAGA penalties and for which a form 1099 shall issue. Counsel for Respondents shall distribute said amounts to the LWDA and to Claimant no later than fourteen (14) business days of the Court confirming approval of the PAGA settlement and dismissing the Amended PAGA Complaint. Claimant agrees that Respondents' designation of settlement funds in the manner set forth in this paragraph is fully acceptable. Claimant further acknowledges that the foregoing constitutes an accord and satisfaction and a full and complete settlement of Claimant's individual PAGA claim. Respondents' payment set forth in this paragraph shall constitute the entire consideration to be provided to Claimant pursuant to this Agreement and for resolution of her individual PAGA claim. Claimant agrees not to seek

any further compensation for any other claimed damage, costs or attorneys' fees in connection with the matters encompassed in this Agreement.

4. **Effective Date:** The Effective Date of this Agreement is the date that the Arbitrator approves the Agreement and Stipulation and issues an order dismissing Claimant's PAGA Case with prejudice, including her individual PAGA claim, the FEHA Case and the respective Court where those case are pending confirms the order. Claimant represents that she does not seek to pursue a PAGA claim on behalf of other aggrieved employees and therefore a dismissal with prejudice on behalf of other alleged "aggrieved employees" is not warranted. To the extent the Court does not approve the PAGA Settlement and Stipulation, the Parties and their counsel agree that they will cooperate with each other and use their best efforts to effect the PAGA Settlement to obtain Court approval for same.

5. **LWDA Notification:** Claimant will timely provide the notifications and submission to the LWDA as required by Labor Code section 2699(l).

6. **Taxes; Indemnification:** Claimant acknowledges and agrees that Respondents have not made any representations regarding the tax consequences of any payment made pursuant to this Agreement. Claimant agrees that she is responsible for payment of any and all taxes on the payments made pursuant to this Agreement. Claimant further agrees to indemnify, hold harmless and defend Respondents against any and all claims, demands, or liabilities that may be asserted by any governmental agency (including but not limited to any local, state or federal taxing authority or agency) against Respondents for any federal, state or local taxes or penalties that may be payable as a result of any payment made pursuant to this Agreement. In addition, Claimant agrees to pay any and all interest or penalties charged to or assessed against Respondents based on any payment made pursuant to this Agreement.

7. **Release of PAGA Claims:** To the greatest extent permitted by law, as a representative for the State of California and Labor Workforce Development Agency, Claimant individually and on behalf of herself only freely, knowingly and voluntarily releases and forever discharges Respondents and the Released Parties of and from all manner of actions, suits, claims, damages, liabilities, penalties, arbitrations, charges, claims for attorneys' fees, interest, expenses and costs, judgments, awards, orders, executions or demands of any nature whatsoever, whether known or unknown, suspected or unsuspected, against Released Parties or any of them, which the State of California, including the LWDA, or Claimant ever had, now has, or which Claimant or Claimant's heirs, assigns, executors or administrators hereafter can, shall or may have arising under the PAGA and solely associated with individual Claimant's employment (and excluding claims for any other employee's employment) which includes claims predicated upon California Labor Code sections 201, 202, 203, 210, 221, 226, 226(a) 1-2, 4-5, 9, 226.3, 226.7 510, 512, 558, 1194, 1198, 2802, 6401, 6403, Industrial Welfare Commission Order Nos. 4-2001, 7-2001, 8-2001, 9-2001, 16-2001, and Wage Orders 1, 3, 4, 7, 9, sections 3, 7, 11, and 12, and 11 and 12, and/or any other California Labor Code provisions that could have been asserted under the PAGA in connection with the Amended PAGA Complaint and/or PAGA Letter ("Released Claims"), including but not limited to any claims for penalties, wages, interest and/or attorneys' fees and costs thereon arising from any and all of the Released Claims. All such Released Claims (including, without limitation, claims for related attorneys' fees and costs) are forever barred by this Agreement regardless of the forum in which they may be brought.

Other than resolving and barring the settled claims from being asserted by the Plaintiff, nothing in this Agreement shall affect any state or federal government agencies' rights and responsibilities to enforce the California Labor Code or any other applicable law, nor shall anything in this Agreement be construed as a basis for interfering with Claimant's protected right to file a timely charge with, or participate in an investigation or proceeding with a state, federal or local government entity; provided, however, if the state, federal or local government entity commences an investigation on Claimant's behalf pertaining to the claims asserted in the Amended PAGA Complaint and/or PAGA Letter, Claimant specifically waives and releases her right, if any, to recover any monetary or non-monetary benefits of any sort whatsoever arising from any such investigation or otherwise and from any such administrative charge or complaint filed with any government agency other than the NLRB. If these claims are resolved a state court not reassert them..

8. **No Admission Of Liability:** This Agreement shall not be construed as an admission by Respondents or the Released Parties of liability or of any violation of the rights of Claimant or any person, or of any violation of any law, statute, duty or order whatsoever. Respondents and the Released Parties do not admit that they ever violated any provision of the California Labor Code, including, but not limited to, those sections for which Claimant seeks relief, including under the PAGA, or of any other law. Respondents and the Released Parties specifically disclaim any liability to Claimant or any other person, including any allegedly aggrieved employees, for any violation of any contract, law, statute, duty, order, or any other basis. This PAGA Settlement shall not be used or offered as evidence to establish liability against Respondents or the Released Parties in any subsequent action or proceeding; provided, however, this shall not prevent the PAGA Settlement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize the PAGA Settlement.

9. **Severance:** If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, that provision shall be deemed severed and deleted from this Agreement, and neither that provision nor its severance and deletion shall affect the validity of the remaining provisions. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable all Released Parties. If such release is found to be invalid, this entire Agreement shall be deemed null and void.

10. **Choice of Law:** This Agreement is to be interpreted pursuant to the laws of California, except where the application of federal law applies.

11. **Counterparts/Facsimile Signatures:** This Agreement may be executed in counterparts, and signatures exchanged by facsimile or other electronic means (e.g., PDF) shall be effective for all purposes hereunder to the same extent as original signatures, all of which when taken together shall constitute the Agreement. Any Party who delivers a facsimile or PDF signature page agrees to later deliver an original signature page to any Party who requests it.

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Having read, understood, and agreed to the foregoing terms and conditions, the Parties hereby voluntarily execute this Agreement by placing their signatures below.

Date: 08/31/2023



Claimant Galdina De Jesus Benigno

Date: _____

Representative for Respondents Northgate Gonzalez, Inc.
and Northgate Gonzalez Markets, Inc

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