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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

**JUAN MATIAS, individually and on behalf  
of all others similarly situated**

**Plaintiff,**

**vs.**

**HIMALAYAN TREASURES, LLC, dba Earth  
Elements; and DOES 1-100, inclusive,**

**Defendants.**

Case No. 37-2022-00018548-CU-OE-CTL  
37-2023-00002547-CU-OE-CTL

JOINT STIPULATION FOR CLASS  
ACTION SETTLEMENT AND RELEASE

1 This Joint Stipulation of Class Action Settlement and Release (hereinafter, "Settlement") is  
2 made and entered into by and between Plaintiff Juan Matias, individually and on behalf of the  
3 Settlement Class, and Defendants Himalayan Treasures, LLC, Hem Rai, and Luisa Jackson, and is  
4 subject to the terms and conditions hereof and the approval of the Court.

### 5 DEFINITIONS

6 1. "Action" means the lawsuits between the Parties pending in the Superior Court for  
7 the County of San Diego as Case Nos. 37-2022-00018548-CU-OE-CTL and 37-2023-00002547-  
8 CU-OE-CTL, including the alleged class claims, representative claims, and individual claims  
9 asserted therein.

10 2. "Class Counsel" refers to the law firm of Mayall Hurley P.C.

11 3. "Class Notice" means the Notice of Proposed Class Action Settlement that shall be  
12 mailed to Settlement Class Members, subject to court approval, in substantially the form attached  
13 hereto as "**Exhibit A.**"

14 4. "Class Period" is the period from May 16, 2018 through and including September  
15 15, 2023.

16 5. "Defendants" collectively refers to Defendants Himalayan Treasures, LLC, Hem  
17 Rai, and Luisa Jackson.

18 6. "Defendant's Counsel" refers to the law firm of Bailey Law Corporation.

19 7. "LWDA" means the California Labor & Workplace Development Agency.

20 8. "PAGA" means the California Labor Code's Private Attorneys General Act of 2004,  
21 as amended, section 2698, *et seq.*

22 9. "PAGA Period" is the period from November 15, 2021 through and including  
23 September 15, 2023.

24 10. "Parties" means Plaintiff and Defendants, collectively.

25 11. "Plaintiff" means named Plaintiff Juan Matias.

26 12. "Settlement Class Member" means a Class Member who does not timely seek  
27 exclusion from the Settlement Agreement. All Settlement Class Members shall be included in the  
28

1 Settlement and shall receive a Settlement Share in exchange for the full release of the Released  
2 Class Claims (as defined herein) for the entire Class Period.

3 13. "Settlement" or "Settlement Agreement" shall be the collective terms and conditions  
4 set forth by way of this Joint Stipulation of Class Action Settlement and Release to completely  
5 settle and resolve any and all claims in and pertaining to this Action.

6 14. "Settlement Administrator" means the third-party class action settlement  
7 administrator agreed to by the Parties and approved by the Court for the purposes of administering  
8 this Settlement. The Parties each represent that they do not have any financial interest in the  
9 Settlement Administrator or otherwise have a relationship with the Settlement Administrator that  
10 could create a conflict of interest.

11 15. "Class" includes all non-exempt individuals who worked for Himalayan Treasures,  
12 LLC in California and worked at least one shift between May 16, 2018 and June 15, 2023. A "Class  
13 Member" is an individual member of the Class.

14 16. "Total Workweeks" means the number of calendar workweeks that the respective  
15 Settlement Class Member worked during the Class Period.

### 16 **BACKGROUND**

17 17. On April 11, 2022, Plaintiff submitted a notification letter to Himalayan and the  
18 Labor & Workforce Development Agency ("LWDA") alleging several wage and hour claims,  
19 including the failure to pay minimum wage, the failure to properly calculate and pay overtime  
20 wages, the failure to provide meal and rest periods or appropriately calculate and pay meal/rest  
21 period premiums, the failure to separately compensate for rest periods, the failure to reimburse for  
22 all business expenses, the failure to provide accurate itemized wage statements, and the failure to  
23 pay all wages due and owing at the time of separation (the "Initial PAGA Letter").

24 18. On May 13, 2022, Plaintiff submitted an additional notification letter to Himalayan  
25 and the LWDA alleging additional wage and hour violations, specifically including the failure to  
26 properly compensate for redeemed sick leave (due to failure to pay such at the regular rate), failure  
27 to maintain a valid commissions agreement as required by Labor Code section 2751, derivative  
28 failures to pay all wages on separation, and unlawful deductions of earned commission wages in

1 violation of Labor Code section 221 (the “Updated PAGA Letter”). The claims outlined in the  
2 Initial PAGA Letter and the Updated PAGA Letter shall be referred to as the “PAGA Claims.”

3 19. On May 16, 2022, Plaintiff filed an Individual and Class Action Complaint in the  
4 Superior Court of California, County of San Diego Case No. 37-2022-00018548 (the “Class  
5 Action”) alleging several wage and hour claims, including the failure to pay minimum wage, the  
6 failure to properly calculate and pay overtime wages, the failure to provide meal periods and  
7 associated premiums, the failure to provide rest periods and associated premiums, the failure to  
8 separately compensate for rest periods (Cal. Labor Code § 226.2), failure to reimburse employee  
9 expenses, failure to furnish accurate itemized wage statements, the failure to pay all wages due and  
10 owing at the end of employment, and unlawful business practices on a class-wide basis (the “Class  
11 Claims”). Plaintiff also asserted two individual claims based on Defendants’ alleged failure to  
12 timely provide him with copies of his personnel and payroll records.

13 20. On January 19, 2023, Plaintiff file a Representative Action for Penalties in the  
14 Superior Court of California, County of San Diego Case No. 37-2023-00002547-CU-OE-CTL  
15 seeking to assess civil penalties under the PAGA arising out of the PAGA Claims (the “PAGA  
16 Action”).

17 21. All claims alleged in the Initial PAGA Letter, the Updated PAGA Letter, the Class  
18 Claims in the Class Action, and the PAGA Action are collectively referred to herein as the  
19 “Action.” The Action specifically includes the following causes of action: (1) Failure To Pay  
20 Minimum Wage; (2) Failure To Properly Calculate and Pay Overtime; (3) failure to provide meal  
21 periods and associated premiums, (4) the failure to provide rest periods and associated premiums,  
22 (5) the failure to separately compensate for rest periods (Cal. Labor Code § 226.2), (6) failure to  
23 reimburse employee expenses, (7) failure to furnish accurate itemized wage statements, (8) the  
24 failure to pay all wages due and owing at the end of employment, (9) unlawful business practices  
25 and (10) Violation of Private Attorneys General Act.

26 **RECITALS**

27 22. The Parties have conducted formal and informal discovery and investigation of the  
28 facts and law in this Action. Such discovery and investigation have included, inter alia, the

1 exchange of informal data and discoverable information in preparation for the mediation session  
2 and the provision of formal sworn discovery responses with data points (including total number of  
3 Class Members, etc.). The Parties have analyzed payroll and other data pertaining to Plaintiff and  
4 members of the Class during the relevant Class Period, including but not limited to, employee  
5 workweeks, time records, meal period records, wage statements, wages, hours worked,  
6 compensation paid, and rates of hourly pay.

7 23. Plaintiff believes the action is meritorious. Plaintiff and Class Counsel have  
8 considered the expense and length of continued proceedings necessary to continue the action  
9 against Defendants through litigation, pre-trial motions, trial, and any possible appeals. Plaintiff  
10 and Class Counsel have also taken into account the uncertainty and risk of the outcome of further  
11 litigation, the difficulties inherent in such litigation, and limited financial resources available to  
12 Defendants to make a lump sum payment. Plaintiff and Class Counsel are also aware of the burdens  
13 of proof necessary to establish liability for the claims asserted in the Action, Defendants' defenses  
14 thereto, and the difficulties in establishing Plaintiff's entitlement to monetary recovery and relief.  
15 Plaintiff and Class Counsel have also considered the settlement negotiations conducted by the  
16 Parties with the mediator, retired Orange County Superior Court Judge Luis Rodriguez, and  
17 independently following the mediation session. Based on the foregoing, Plaintiff and Class  
18 Counsel have determined that the Settlement is fair and reasonable, and in the best interests of  
19 Plaintiff and the Class.

20 24. Defendants dispute the merits of the action and deny all liability and wrongdoing of  
21 any kind associated with the claims alleged in the Action or otherwise. Defendants contend, inter  
22 alia, that at all times they fully complied with all state and federal wage and hour laws, including  
23 all Labor Code and Wage Order requirements, and all regulations applicable to Plaintiff and the  
24 Class in connection with the services performed for Defendants. Nothing contained in this  
25 Settlement Agreement, nor any documents referred to herein, nor any action taken to carry out  
26 and/or consummate the Settlement is, or may be construed as, or may be used as, an admission of  
27 liability, culpability, negligence or wrongdoing by or against Defendants as to the merits or lack  
28 thereof of the claims being settled by this Settlement Agreement.

1           25.     On July 26, 2023, the Parties mediated the Action before Judge Rodriguez, who is  
2     an experienced mediator in employment litigation with specific experience with wage and hour  
3     class action matters. After a full day of mediation, the Parties were not able to resolve the Action.  
4     The Parties continued their settlement negotiations for more than a month and agreed to the material  
5     terms of this settlement on September 5, 2023.

6           26.     The Parties now enter into this Settlement Agreement to submit to the Court for  
7     approval. As more particularly set forth below, it is the desire of the Parties to fully, finally and  
8     forever settle, compromise and discharge the Released Class Claims and the Released PAGA  
9     Claims. In addition, Plaintiff agrees to enter into a general release of all claims as more particularly  
10    set forth below.

11          27.     For settlement purposes only, the Parties conditionally stipulate and agree that all of  
12    the requisites for establishing class certification are met with respect to the "Class," as defined  
13    above, and stipulate to certification under Code of Civil Procedure section 382 of this Class.  
14    Defendants do not waive, and instead expressly reserve, their right to challenge the propriety of  
15    class certification for any purpose should the Court not approve the Settlement. Defendants'  
16    willingness to stipulate to class certification as part of the Settlement shall have no bearing on, and  
17    shall not be admissible in or considered in connection with, the issue of whether a class should be  
18    certified in a non-settlement context in this Action and shall have no bearing on, and shall not be  
19    admissible or considered in connection with, the issue of whether a class should be certified in any  
20    other lawsuit.

21          28.     Should the Settlement not achieve final approval for any reason, the Parties agree  
22    that this Action shall revert to the procedural posture that existed as of the date the Parties agreed  
23    to a settlement in principle, September 5, 2023, including but not limited to any pending discovery  
24    requests, and no Party shall have waived any rights between the Parties and/or the Settlement Class,  
25    and/or any individual member of the Settlement Class.

26          29.     The Parties intend that this Settlement Agreement shall include a full and complete  
27    settlement and release, as more particularly set forth below, of Defendants Himalayan Treasures,  
28    LLC, Hem Rai, and Luisa Jackson, and each of their past, present and future affiliates, parent

1 companies, subsidiaries, shareholders, members, lenders, officers, partners, directors, employees,  
2 agents, attorneys, insurers, predecessors, representatives, accountants, plan administrators, heirs,  
3 trustees and successors and assigns, and each and all of their respective past, present and future  
4 officers, partners, directors, servants, agents, shareholders, members, employees, representatives,  
5 accountants, insurers, and attorneys and all persons acting under, by, through, or in concert with  
6 any of them (the "Released Parties").

7 30. In connection with the proposed certification of the Class, the Parties shall cooperate  
8 and present to the Court for its consideration any additional competent evidence, as may be  
9 requested by the Court, under the applicable due process requirements and standards for class  
10 certification, and shall take all steps necessary and appropriate to obtain preliminary and final  
11 approval of the Settlement and to effectuate all aspects of the Settlement.

12 31. The Parties, Class Counsel and Defense Counsel represent that they are not aware of  
13 any other pending matter or action asserting claims that will be extinguished or affected by the  
14 Settlement.

### 15 **SETTLEMENT STRUCTURE**

16 32. NOW, THEREFORE, in consideration of the mutual covenants, promises, and  
17 warranties set forth herein, the Parties agree, subject to the Court's approval, as follows:

18 A. Settlement: This Action shall be settled and compromised as between  
19 Plaintiff, the Class, and Defendants, subject to the terms and conditions set forth in this Settlement  
20 Agreement and the approval of the Superior Court of California, County of San Diego. In the event  
21 Judgment is not entered, or in the event this Settlement Agreement is modified in any material  
22 respect, or in the event that the Effective Date, as defined herein, does not occur, this Settlement  
23 Agreement shall be deemed null and void and shall be of no force or effect whatsoever, and shall  
24 not be referred to or utilized for any purpose whatsoever.

25 B. Gross Settlement Amount: The settlement is in the gross amount of Two  
26 Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) (hereinafter, the "Gross Settlement  
27 Amount"). This Gross Settlement Amount is all-inclusive of all payments contemplated in this  
28 resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares

1 allocated to wages which shall be separately paid by Defendants to the Settlement Administrator.  
2 The Gross Settlement Amount shall be inclusive of, as described and defined herein, all settlement  
3 payments to Settlement Class Members, the costs of settlement administration, Class Counsel's  
4 reasonable attorneys' fees, Class Counsel's reasonable litigation expenses and costs, service fee  
5 award to Plaintiff, and the PAGA Allocation. No other funds shall be owed or paid by Defendants  
6 in excess of the Gross Settlement Amount, other than the employer-side tax obligations identified  
7 above, unless the escalator clause, described in Paragraph 31.D.iv is triggered.

8 C. Net Class Settlement Amount: The Net Class Settlement Amount shall be  
9 the Gross Settlement Amount, less all of the following: the costs of settlement administration  
10 (subject to the approval of the Court), Class Counsel's reasonable attorneys' fees, expenses, and  
11 costs (subject to the approval of the Court), Plaintiff's service fee award (subject to the approval of  
12 the Court), and the PAGA Allocation (subject to the approval of the Court). It is estimated that the  
13 Net Settlement Amount will be at least One Hundred Sixteen Thousand Six Hundred Sixty Six  
14 Dollars and Sixty Seven Cents (\$116,666.67).

15 D. Settlement Share of Settlement Class Members: Each Settlement Class  
16 Member's respective share of the Class Net Settlement Amount shall be calculated as follows:

17 i. As described below, Defendant will provide the Settlement  
18 Administrator with Class Information (as defined herein), including the Class Members' respective  
19 dates of employment.

20 ii. From the Class Information, the Settlement Administrator shall  
21 determine the Total Workweeks that each Settlement Class Member worked during the Class  
22 Period.

23 iii. After final approval of this Settlement and full funding of the Gross  
24 Settlement Amount and according to the timetables set forth in this Settlement Agreement, all  
25 Settlement Class Members shall receive a pro rata amount of the Net Class Settlement Amount in  
26 exchange for the full release of the Released Class Claims for the entire Class Period. The  
27 individual Settlement Share will be determined by dividing the Net Class Settlement Amount by  
28 the total number of Work Weeks for all Settlement Class Members, resulting in the Work Week

1 Value, and then multiplying the Work Week Value by the number of Work Weeks worked by each  
2 Settlement Class Member during the Class Period. For purposes of determining the individual  
3 Settlement Share, each Settlement Class Member who is a former employee no longer working for  
4 Defendants will be assigned ten (10) additional Workweeks. These additional Workweeks will  
5 increase the individual settlement awards of Settlement Class Members who no longer work for  
6 Defendants, but will not be included in the Workweek count when evaluating whether the Escalator  
7 Clause is applicable.

8 iv. Escalator Clause. Based on a review of the records as of July 26,  
9 2023, the Defendants estimate that, as of July 26, 2023,, there were approximately 195 Class  
10 Members who worked 8,500 workweeks through July 26, 2023. If either of these numbers  
11 increases by more than 10%, the Gross Settlement Amount shall increase pro rata with a 10% grace  
12 margin (i.e., if the number of Class Members increases by 11%, the Maximum Settlement Amount  
13 shall increase by 1%). If both the number of Class Members and the number of Workweeks  
14 increases by more than 10%, the greater percentage increase will control (i.e., if the number of Class  
15 Members increases by 11% and the number of Workweeks increases by 13%, the Gross Settlement  
16 Amount will increase by 3%).

17 v. Settlement Shares will not count as earnings or compensation for  
18 purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendants.

19 E. Class Counsel Attorneys' Fees: Defendants agree that they will not oppose  
20 Plaintiff's request for an award of attorneys' fees to Class Counsel in an amount up to one-third  
21 (1/3) of the Gross Settlement Amount in order to compensate and reimburse Class Counsel for all  
22 of the work already performed in this case, all of the work remaining to be performed by Class  
23 Counsel in documenting the Settlement, securing Court approval of the Settlement, making sure  
24 that the Settlement is fairly administered and implemented, and obtaining final approval of this  
25 Settlement. Plaintiff believes such a percentage fee is warranted considering, without limitation:  
26 (1) the time and labor required of Class Counsel in this Action; (2) the complexity involved and the  
27 results obtained; (3) the potential contingent nature of the compensation; (4) the opportunity costs  
28 to Class Counsel in the time the engagement has taken away from other potential matters; and (5)

1 the informed consent of Plaintiff to a percentage fee to Class Counsel of up to one-third of the  
2 Gross Settlement Amount. The Parties acknowledge and understand that Class Counsel's  
3 attorneys' fees will be paid entirely from the Gross Settlement Amount, regardless of the amount  
4 approved by the Court, and that should the Court approve a lesser amount than set forth in this  
5 subparagraph, the unapproved amount shall be allocated to the Class Net Settlement Amount.

6 F. Class Counsel's Costs: Class Counsel will separately seek recovery of their  
7 actual, reasonable litigation costs and expenses. Defendants agree that they will not oppose or  
8 otherwise object to Plaintiff's request for an award of costs in an amount up to Fifteen Thousand  
9 Dollars (\$15,000). The Parties acknowledge and understand that Class Counsel's costs will be paid  
10 entirely from the Gross Settlement Amount, regardless of the amount approved by the Court, and  
11 that should the Court approve a lesser amount than set forth in this subparagraph, the unapproved  
12 amount shall be allocated to the Net Class Settlement Amount.

13 G. Enhancement Payment for Plaintiff: Subject to Court approval, Defendants  
14 will not object to application for a service fee award of Ten Thousand Dollars (\$10,000) for  
15 Plaintiff. It is understood that this service fee award is in addition to Plaintiff's Settlement Share  
16 as a Settlement Class Member. The Settlement Administrator will issue IRS Form 1099 for the  
17 service fee award to Plaintiff. Plaintiff shall assume full responsibility and liability for correctly  
18 characterizing this compensation on his personal income tax return for tax purposes and for paying  
19 any taxes on the amounts received. The Parties acknowledge and understand that the service fee  
20 award will be paid entirely from the Gross Settlement Amount, regardless of the amount approved  
21 by the Court, and that should the Court approve a lesser amount(s) than set forth in this  
22 subparagraph, the unapproved amount(s) shall be allocated to the Net Class Settlement Amount.

23 H. The PAGA Allocation: The Parties have agreed that Ten Thousand Dollars  
24 (\$10,000) of the Gross Settlement Amount shall be allocated to the resolution of all Class Members'  
25 claims arising under PAGA (the "PAGA Allocation") during the PAGA Period. Pursuant to  
26 PAGA, seventy-five percent (75%) of the PAGA Allocation shall be paid to the LWDA, and the  
27 remaining 25% shall be distributed amongst Class Members employed during the PAGA Period  
28 (the "Employee PAGA Amount"), regardless of whether the Class Member is a Settlement Class

1 Member, in exchange for the PAGA Release. Any Class Member employed during the PAGA  
2 Period will be entitled to a pro rata share of the Employee PAGA Amount based on the number of  
3 workweeks that individual worked for Defendants during the PAGA Period. The Parties  
4 acknowledge and understand that the PAGA Allocation will be paid entirely from the Gross  
5 Settlement Amount, regardless of the amount approved by the Court, and that any unapproved  
6 amount of the PAGA Allocation shall be allocated to the Net Class Settlement Amount.

7 I. Settlement Administration Costs: The Settlement Administrator has agreed  
8 to perform all necessary class administration duties for a fee estimated to be no more than Fifteen  
9 Thousand Dollars (\$15,000). These administration duties shall include, without limitation,  
10 searching for updated addresses before mailing Class Notices, performing necessary skip traces on  
11 notices returned as undeliverable, calculating, processing, and mailing settlement checks, handling  
12 tax withholding, contributions, reporting and filings. The Parties acknowledge and understand that  
13 the Settlement Administrator's fees will be paid entirely from the Gross Settlement Amount,  
14 regardless of the amount approved by the Court, and that any unapproved or unused portion below  
15 the amount set forth in this paragraph shall be allocated to the Net Class Settlement Amount.

16 33. Effective Date: The "Effective Date" is a condition of performance of the  
17 obligations under this Settlement. The Effective Date is the latter of: (1) the date upon which an  
18 order granting final approval or final judgment is entered, if no Objection (defined herein) to the  
19 Settlement is timely received from a Settlement Class Member; or (2) if any Objection to the  
20 Settlement is received, the last date after the final judgment by which a notice of appeal of the order  
21 granting final approval or the final judgment may be timely filed, and none is filed; or (3) if any  
22 Objection is received and a notice of appeal from the order granting final approval or the final  
23 judgment is filed, the date on which the Superior Court's order granting final approval or final  
24 judgment is finally affirmed or upheld without any further right of appeal by any party or third  
25 party and following the expiration of any such period for such further appeal that may be available.

26 34. Settlement Funding and Payment Timetable: Within fourteen (14) calendar days of  
27 the Effective Date, Defendants will make a one-time deposit of Fifty Thousand Dollars (\$50,000.00),  
28 plus applicable payroll taxes, for payment of all Court-approved and claimed amounts from the

1 Maximum Settlement Amount into a Qualified Settlement Account to be established by the  
2 Settlement Administrator. Defendants will then make twenty (20) subsequent payments of Ten  
3 Thousand Dollars (\$10,000.00) on or before the 15th of every month, following the month in which  
4 the one-time deposit is made. The Settlement Administrator shall be responsible for depositing the  
5 funds in the Settlement Account and solely responsible for taking all necessary and reasonable steps  
6 to ensure the entirety of the funds are securely deposited into and remain in the Settlement Account  
7 for the distributions specified in this Agreement.

8 A. Within fourteen (14) calendar days of the Settlement Administrator's receipt  
9 of the entire Gross Settlement Amount from Defendants, the Settlement Administrator will make all  
10 required distributions pursuant to this Settlement and the order and Judgment of final approval  
11 including, to the extent ordered, all Settlement Shares to Settlement Class Members and Court-  
12 approved attorneys' fees, costs, enhancement payment, costs of settlement administration, and PAGA  
13 Allocation.

14 35. Resolution of Dispute: If any Settlement Class Member timely disputes the number  
15 of his or her Total Workweeks, by way of a written dispute that is postmarked within the Notice  
16 Period (as defined below) as provided for in the Class Notice, the dispute shall be determined by  
17 the Settlement Administrator, who shall examine all available written records in an attempt to  
18 resolve the dispute. Defendant's records shall be presumed accurate and control unless the  
19 Settlement Class Member provides satisfactory proof that Defendant's records are incorrect. In  
20 any event, the Settlement Administrator will make every reasonable effort to resolve any such  
21 disputes before final approval of this Settlement. The Settlement Administrator's determination of  
22 the eligibility for and amount of any Settlement Share shall be final, not subject to appeal, and  
23 binding upon the Settlement Class Member and the Parties.

24 **NOTICE TO THE SETTLEMENT CLASS**

25 36. Subject to Court approval, the Parties agree that, within twenty-one (21) calendar  
26 days after the Court enters any Order granting preliminary approval of the Settlement, Defendants  
27 will provide to the Settlement Administrator the following information for each Settlement Class  
28 Member in a reasonable format requested by the Settlement Administrator: (1) name; (2) last known

1 home address and telephone numbers; (3) social security number; and (4) dates of employment  
2 (collectively, the “Class Information”). The Settlement Administrator will perform address updates  
3 and verifications, as necessary, prior to the first mailing. Within fourteen (14) calendar days after  
4 the Settlement Administrator receives the Class Information from Defendants, and subject to Court  
5 approval, the Settlement Administrator will mail the Class Notice by first class mail.

#### 6 **SETTLEMENT ADMINISTRATION**

7 37. Class Information. Any Class Information or other personnel data provided by  
8 Defendants to the Settlement Administrator, shall be treated as confidential and shall not be used  
9 by the Settlement Administrator for any purpose other than as permitted by this Agreement.  
10 Further, the Settlement Administrator shall use commercially reasonable efforts to secure the data  
11 provided by Defendants at all times so as to avoid inadvertent or unauthorized disclosure or use of  
12 such data other than as permitted by this Agreement. At no time during the settlement process will  
13 any Class Member’s Social Security Number be filed with the Court, except under seal as may be  
14 ordered by the Court. The Settlement Administrator shall ensure that the Notice and any other  
15 communications to Class Members shall not include the Class Members’ Social Security Number,  
16 except for the last four digits.

17 38. Notice Period. Class Members will be afforded the opportunity to submit an  
18 objection to the Settlement (“Objection”) or to exclude themselves from the Settlement (“Exclusion  
19 Request”) by mail. Class Members will be permitted no more than forty-five days (45) calendar  
20 days from the date the Class Notices are mailed by the Settlement Administrator to postmark their  
21 Objection or Exclusion Request to the Settlement Administrator (the “Notice Period”). To be valid,  
22 an Objection or Exclusion Request must be timely submitted during the Notice Period and must  
23 follow the procedures outlined below. These procedures must also be described in the Class Notice.  
24 A Class Member may not submit both an Objection and an Exclusion Request; if a Class Member  
25 submits to Exclusion Request to exclude himself or herself from the Settlement, he or she has no  
26 right to submit an Objection to the Settlement.

27 39. Exclusion Requests. Any Class Member, other than Plaintiff, may elect to submit  
28 an Exclusion Request during the Notice Period. To be effective, any such election: (i) must be

1 made in writing; (ii) must contain the name and sufficient information to verify the individual's  
2 identity in the opinion of the Settlement Administrator, which may include address, telephone  
3 number, and/or last four digits of the social security number of the Class Member requesting  
4 exclusion; (iii) must be signed by the Class Member who is electing to be excluded; and (iv) must  
5 be mailed to the Settlement Administrator on or before the end of the Notice Period. As applicable,  
6 the date of the postmark on the mailing envelope shall be the exclusive means to determine whether  
7 an Exclusion Request is timely. Any Class Member who timely submits an Exclusion Request in  
8 compliance with these requirements shall not be a Settlement Class Member, shall not be entitled  
9 to receive any Settlement Share, shall not be entitled to submit an Objection to the Settlement  
10 Agreement, and shall not be bound by the terms of this Settlement Agreement, except that the  
11 PAGA Release shall apply to all Class Members and all Class Members shall still be entitled to his  
12 or her individual share of the Employee PAGA Amount. Under no circumstances may any Class  
13 Member request exclusion from that portion of the Settlement relating to the PAGA Allocation,  
14 and any request for exclusion shall not have any effect on the PAGA Release, which shall remain  
15 in full force and effect.

16 40. Objections: Any Settlement Class Member (one who does not timely seek exclusion  
17 from the Settlement Agreement), other than Plaintiff, may submit an Objection to final approval of  
18 this Settlement, provided that the Objection is made in writing and mailed to the Settlement  
19 Administrator by no later than the last day of the Notice Period. As applicable, the date of the  
20 postmark on the mailing envelope shall be the exclusive means to determine whether the Objection  
21 is timely. An Objection must clearly state the name of the case and case number and must also  
22 include the objector's full name, address, and the basis for any Objection and, if the objector is  
23 represented by counsel, the name and address of the objector's counsel. The Objection must also  
24 state whether the Settlement Class Member intends to appear at the final approval hearing and  
25 present oral argument. At the Court's discretion, any Settlement Class Member who has not  
26 complied with these requirements may not be heard at the final approval hearing. Any Settlement  
27 Class Member who fails to comply with these requirements will be deemed to have waived any  
28

1 right to submit an Objection to the Settlement Agreement. The Settlement Administrator shall  
2 promptly forward any and all Objections that it receives to Class Counsel and Defendant's Counsel.

3 41. Re-mailing. The Settlement Administrator will perform one skip-trace on any  
4 returned Class Notices and re-mail Class Notices to any updated address (if any) within seven (7)  
5 calendar days of receipt of the returned mail for all returned mail received by the Settlement  
6 Administrator by the conclusion of the Notice Period. The deadline for a Settlement Class Member,  
7 who has been re-mailed the Class Notice, to submit the Exclusion Request, or to object to the  
8 Settlement, shall be the later of the conclusion of the Notice Period or fifteen (15) calendar days  
9 from the date the Class Notice is re-mailed. It is the intent of the Parties that the Settlement  
10 Administrator use reasonable and customary means to locate Class Members.

11 42. Deficiency Notice. Within seven (7) calendar days of receipt by the Settlement  
12 Administrator of any timely submitted, but deficient Exclusion Request, the Settlement  
13 Administrator will send a deficiency notice to the Settlement Class Member regarding any  
14 irregularities ("Deficiency Notice"). The Deficiency Notice will provide any applicable Settlement  
15 Class Member no more than fifteen (15) calendar days from the mailing of any Deficiency Notice  
16 to postmark the response to any deficiencies in writing. The failure of a Settlement Class Member  
17 to cure a deficiency shall invalidate an Exclusion Request, unless counsel for both of the Parties  
18 stipulate otherwise.

19 43. Weekly Report. On a weekly basis, the Settlement Administrator will advise Class  
20 Counsel and Defendant's Counsel regarding the number of Exclusion Requests and/or Objections  
21 that have been submitted. The Settlement Administrator shall be responsible for calculating the  
22 Settlement Share for each Settlement Class Member, issuing payments to Settlement Class  
23 Members, and performing all other settlement administration duties required by this Settlement  
24 Agreement. Upon completion of the Notice Period, the Settlement Administrator shall provide  
25 Class Counsel and Defendant's Counsel with a report listing the amount of all payments to be made  
26 to each Settlement Class Member. Proof of Payment will be filed with the Court and provided to  
27 the Parties' respective counsel.  
28

1           44.    Tax Payment. The Settlement Administrator shall withhold all payroll and income  
2 taxes required by law to be withheld and/or paid on behalf of the employees from its distributions  
3 to the Settlement Class, and report and remit the same to the appropriate government agencies. The  
4 Settlement Administrator shall report individual settlement amounts to all required taxing and other  
5 authorities, and issue IRS Forms W-2 and 1099. Upon completion of administration of the  
6 Settlement, the Settlement Administrator shall provide written certification of such completion to  
7 the Court and counsel for all Parties.

8           45.    Settlement Checks. Checks issued by the Settlement Administrator to Settlement  
9 Class Members for their respective Settlement Shares shall be negotiable for one hundred and  
10 twenty (120) calendar days. At the conclusion of the 120-day period the checks shall be void. A  
11 Qualified Class Member's act of negotiating his or her Settlement Share for payment shall operate  
12 as, and be deemed to express, the Qualified Class Member's intent to opt in, join, settle, and fully  
13 release and discharge all of the Settlement Class Released Claims, including any claims the  
14 Qualified Class Member may have under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*

15           46.    Uncashed Funds. With the sole exception of the residual, if any, resulting from any  
16 Settlement Class Members' failure to deposit the check issued to them for their respective  
17 Settlement Shares within the 120-day period provided above (hereafter, the "Residual"), the Parties  
18 agree that Code of Civil Procedure section 384 ("Section 384") is not applicable to any portion of  
19 the Gross Settlement Amount (including but not limited to any portion of the Net Settlement  
20 Amount). Neither Plaintiff nor Class Counsel shall take, or cause any other person to take, a  
21 position before the Court that Section 384 applies to any portion of the Gross Settlement Amount,  
22 with the sole exception of the Residual. The Parties agree that any Residual will be distributed to  
23 the nonprofit organization CASA of San Diego County, a child advocacy program that places Court  
24 Appointed Special Advocates For Children (website is [www.casaofalamedacounty.org](http://www.casaofalamedacounty.org)), and  
25 accordingly there will be no "unpaid cash residue and unclaimed or abandoned funds" within the  
26 meaning of Section 384. However, in the event the Residual is determined by the Court to  
27 constitute "unpaid cash residue and unclaimed or abandoned funds" within the meaning of Section  
28 384, the Residual shall be distributed in compliance with Section 384, as directed by the Court after

1 a hearing regarding the actual amount paid to the class members, to the nonprofit organization  
2 CASA of San Diego County.

3 **SETTLEMENT CLASS RELEASED CLAIMS AND PAGA RELEASE**

4 47. Other than the rights created by this Settlement Agreement, upon the Effective Date  
5 and after full funding of the Gross Settlement Amount, Plaintiff and each Settlement Class Member  
6 shall fully release and discharge the Released Parties for the entire Class Period from any and all  
7 claims as follows:

8 A. Settlement Class Members shall release the Released Parties from causes of  
9 action, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses, interest,  
10 attorneys' fees, penalties, and damages, whether suspected or unsuspected, contingent or accrued,  
11 known or unknown, arising from the factual allegations and claims set forth in the Action, and  
12 occurring during the Class Period, that were alleged or could have been alleged based on the factual  
13 allegations asserted on behalf of the Class, including, without limitation: Class Allegations  
14 predicated on allegations of (1) Failure To Pay Minimum Wage; (2) Failure To Properly Calculate  
15 and Pay Overtime; (3) failure to provide meal periods and associated premiums, (4) the failure to  
16 provide rest periods and associated premiums, (5) the failure to separately compensate for rest  
17 periods (Cal. Labor Code § 226.2), (6) failure to reimburse employee expenses, (7) failure to furnish  
18 accurate itemized wage statements, (8) the failure to pay all wages due and owing at the end of  
19 employment, (9) unlawful business practices, specifically including any claims for alleged  
20 violations of California Labor Code sections 201 to 203, 218.5, 218.6, 226, 226.2, 226.3, 226.7,  
21 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, 2802, and the Wage  
22 Orders promulgated thereunder; any derivative claims for unpaid wages or penalties, and for unfair,  
23 unlawful, and fraudulent business practices under the California Business and Professions Code  
24 sections 17200, *et seq.*; and all related remedies of any nature whatsoever, including without  
25 limitation all claims for restitution and other equitable relief, injunctive relief, statutory damages,  
26 liquidated damages, exemplary damages, punitive damages, waiting-time penalties, statutory  
27 penalties, civil penalties, interest, attorneys' fees, costs, and expenses (the "Released Class  
28 Claims").

1           48. In addition, other than the rights created by this Settlement Agreement, upon the  
2 Effective Date and Defendants' full funding of the Gross Settlement Amount, Plaintiff, each Class  
3 Member, and the LWDA, in exchange for the PAGA Allocation, shall fully release and discharge  
4 the Released Parties for the entire PAGA Period from any and all claims seeking civil penalties, or  
5 any other relief under PAGA based on or arising from the allegations in the Action, including and  
6 any claims that could have been asserted under PAGA based on the facts and statutes pled in the  
7 Action, which include any applicable Industrial Welfare Commission Wage Order and claims under  
8 the California Labor Code, including but not limited to Labor Code sections 201, 202, 203, 204,  
9 210, 224, 226, 226.2, 226.3, 226.7, 233, 246, 510, 512, 558, 1182.12 et seq., 1174, 1194, 1197,  
10 1198, and their subparts, and any and all claims for Plaintiff's costs, expenses, interest, and  
11 attorneys' fees pertaining to them (the "Released PAGA Claims").

12                           **PLAINTIFF'S GENERAL RELEASE OF ALL CLAIMS**

13           49. Other than the rights created by this Settlement Agreement, in addition to the  
14 Released Class Claims and the Released PAGA Claims, Plaintiff individually and on behalf of each  
15 of his executors, administrators, representatives, attorneys, successors and assigns knowingly and  
16 voluntarily releases and forever discharges Defendants and the Released Parties, to the full extent  
17 permitted by law, of and from any and all claims, known and unknown, asserted and unasserted,  
18 which Plaintiff has or may have against the Released Parties as of the Effective Date of this  
19 Settlement Agreement, including, but not limited to, any alleged violation of Title VII of the Civil  
20 Rights Act of 1964; the Civil Rights Act of 1991; the Americans with Disabilities Act of 1990; the  
21 Age Discrimination in Employment Act of 1967; the Family and Medical Leave Act; the Equal Pay  
22 Act; the California Family Rights Act – Cal. Gov't Code § 12945.2; the California Fair  
23 Employment and Housing Act – Cal. Gov't Code § 12900 *et seq.*; the California Equal Pay Law –  
24 Cal. Lab. Code § 1197.5; any other federal, state or local civil or human rights law or any other  
25 federal, state or local law, regulation or ordinance; any public policy, contract, tort or common law;  
26 or; any basis for fees or other expenses including attorneys' fees incurred in these matters.

27           50. To affect a full and complete general release as described above, Plaintiff expressly  
28 waives and relinquishes all rights and benefits of section 1542 of the Civil Code of the State of

1 California, and does so understanding and acknowledging the significance and consequence of  
2 specifically waiving section 1542. Section 1542 of the Civil Code of the State of California  
3 provides, "A general release does not extend to claims that the creditor or releasing party does not  
4 know or suspect to exist in his or her favor at the time of executing the release and that, if known  
5 by him or her, would have materially affected his or her settlement with the debtor or released  
6 party." Thus, notwithstanding the provisions of section 1542, and to implement a full and complete  
7 release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement  
8 Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know  
9 or suspect to exist in their favor at the time of the Effective Date of this Settlement Agreement, and  
10 that this Settlement Agreement contemplates the extinguishment of any such claims.

11 **DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL**

12 51. The Parties shall promptly submit this Settlement Agreement to the Court in support  
13 of a request for preliminary approval and determination by the Court as to its fairness, adequacy,  
14 and reasonableness. Promptly upon execution of this Settlement Agreement, the Parties shall apply  
15 to the Court for the entry of an order of preliminary approval, which shall:

16 A. Schedule a final fairness hearing on the question of whether the proposed  
17 Settlement should be finally approved as fair, reasonable and adequate as to the Settlement Class.

18 B. Certify the Settlement Class for settlement purposes only;

19 C. Certify this action under Code of Civil Procedure section 382 and Rule  
20 3.760, *et seq.*, of the California Rules of Court as a class action for settlement purposes only;

21 D. Approve as to form and content the proposed Class Notice;

22 E. Approve the Settlement Administrator and preliminarily approve the  
23 estimated costs of settlement administration;

24 F. Direct the Settlement Administrator to mail the Class Notice by first class  
25 mail to the Settlement Class Members;

26 G. Preliminarily approve the Settlement subject only to the Objections of  
27 Settlement Class Members and final review by the Court;

1 H. Preliminarily approve Class Counsel's attorneys' fees and costs subject to  
2 final review of the Court; and

3 I. Preliminarily approve the Plaintiff's service fee awards subject to final  
4 review of the Court.

5 **DUTIES OF THE PARTIES PRIOR TO FINAL APPROVAL**

6 52. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel,  
7 Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval  
8 of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or  
9 cause or permit another person to disclose, disseminate or publicize, any of the terms of the  
10 Agreement directly or indirectly, specifically or generally, to any person, corporation, association,  
11 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all  
12 of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3)  
13 to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court  
14 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal  
15 government agency. Each Party agrees to immediately notify each other Party of any judicial or  
16 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant  
17 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or  
18 other communication, before the filing of the Motion for Preliminary Approval, any with third party  
19 regarding this Agreement or the matters giving rise to this Agreement except to respond only that  
20 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's  
21 communications with Class Members in accordance with Class Counsel's ethical obligations owed  
22 to Class Members.

23 53. In advance of the final approval hearing, Class Counsel will submit to the Court a  
24 proposed order of final approval and Judgment, which shall:

25 A. Approve the Settlement, adjudging the terms thereof to be fair, reasonable  
26 and adequate, and directing consummation of its terms and provisions;

27 B. Approve the award of attorneys' fees and costs to Class Counsel;  
28

1 C. Approve the enhancement award to Plaintiff as set forth in the Settlement;  
2 and

3 D. Approve the administration costs of the Settlement Administrator as set forth  
4 in the Settlement.

5 **FINAL JUDGMENT AND CONTINUING JURISDICTION**

6 54. If the Court approves this Settlement at the Final Approval Hearing, the Parties shall  
7 request that the Court enter the Final Judgment after the Settlement has been fully funded,  
8 incorporating the terms of the Settlement in accordance with California Rules of Court, Rule  
9 3.769(h). Pursuant to California Rule of Court 3.769(h), after granting final approval of the  
10 Settlement, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment.

11 **PARTIES' AUTHORITY**

12 55. The signatories hereto hereby represent that they are fully authorized to enter into  
13 this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

14 **MUTUAL FULL COOPERATION**

15 56. The Parties agree to fully cooperate with each other to accomplish the terms of this  
16 Settlement Agreement, including but not limited to, execution of such documents and to take such  
17 other action as may reasonably be necessary to implement the terms of this Settlement Agreement.  
18 The Parties to this Settlement Agreement shall use their best efforts, including all efforts  
19 contemplated by this Settlement Agreement and any other efforts that may become necessary by  
20 order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth  
21 herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall,  
22 with the assistance and cooperation of Defendants and their counsel, take all necessary steps to  
23 secure the Court's preliminary and then final approval of this Settlement.

24 **NO PRIOR ASSIGNMENTS**

25 57. The Parties hereto represent, covenant, and warrant that they have not directly or  
26 indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any  
27 person or entity any portion of any liability, claim, demand, action, cause of action or rights herein  
28 released and discharged except as set forth herein.

**NO ADMISSION OF LIABILITY**

58. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of Defendants. Defendants expressly deny that they have violated the law in any manner and affirmatively assert that their wage and hour practices, and any other acts related to their employees, are and have been in full compliance with all applicable statutes and regulations. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152, be inadmissible as evidence in any proceeding except a proceeding to enforce its terms. Each of the Parties hereto has entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

**CONSTRUCTION**

59. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, arms-length negotiations between the Parties, and that this Settlement Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or her or its counsel participated in this drafting of this Settlement Agreement.

**CAPTIONS AND INTERPRETATIONS**

60. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

61. This Settlement Agreement shall be subject to and governed by the laws of the State of California. The Parties acknowledge that they are subject to the continuing jurisdiction of the Court to enforce the terms of the Settlement contained herein.

**MODIFICATION**

62. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by counsel of the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

**DEFENDANTS' RIGHT TO RESCISSION**

63. Notwithstanding any other provision of this Settlement Agreement, Defendants retain the right, in the exercise of its sole discretion, to nullify the Settlement within ten (10) calendar days of the expiration of the Notice Period, if ten (10) percent or more of the Class Members timely exclude themselves from this Settlement. If Defendants wish to exercise this right, Defendants must do so by written notice sent by mail or electronic mail to Class Counsel within the ten (10) calendar day period. None of the Parties or respective counsel shall, directly or indirectly, solicit or otherwise encourage Class Members to exclude themselves from the Settlement. In the event of such a rescission, no party may use the fact that the Parties agreed to settle this case in any future proceeding in this Action or any other action, including but not limited to, in support of a motion for class certification or as evidence of Defendants' liability in this lawsuit or the lack thereof.

**INTEGRATION CLAUSE**

64. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written, and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

**BINDING ON ASSIGNS**

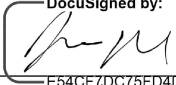
65. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

**SIGNATORIES**

66. It is agreed that because of the large number of Class Members, it is impossible or impractical to have each Settlement Class Member execute this Settlement Agreement. The Class Notice will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each Class Member.

**COUNTERPARTS**

67. This Settlement Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties. Copies of the executed Settlement Agreement shall be effective for all purposes as though the signatures contained therein were original signatures.

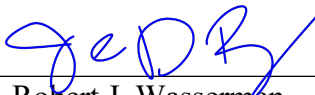
DATED: 9/27/2023, 2023   
DocuSigned by:  
E54CF7DC75FDAD4...  
 Juan Matias, Plaintiff

DATED: \_\_\_\_\_, 2023 \_\_\_\_\_  
 Authorized Agent for Defendant, Himalayan Treasures, LLC

DATED: \_\_\_\_\_, 2023 \_\_\_\_\_  
 Hem Rai, Defendant

DATED: \_\_\_\_\_, 2023 \_\_\_\_\_  
 Luisa Jackson, Defendant

**APPROVED AS TO FORM:**

DATED: September 27, 2023   
 Robert J. Wasserman  
 Jenny D. Baysinger

DATED: \_\_\_\_\_, 2023 \_\_\_\_\_  
 William R. Bailey  
 Steve Pornbida  
 Matthew J. Gustin  
 Counsel for Defendants

67. This Settlement Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties. Copies of the executed Settlement Agreement shall be effective for all purposes as though the signatures contained therein were original signatures.

DATED: \_\_\_\_\_, 2023 \_\_\_\_\_  
Juan Matias, Plaintiff

DATED: 09-21, 2023 \_\_\_\_\_  
Authorized Agent for Defendant, Himalayan Treasures, LLC

DATED: 09-20, 2023 \_\_\_\_\_  
Hem Rai, Defendant

DATED: 09-20, 2023 \_\_\_\_\_  
Luisa Jackson, Defendant

**APPROVED AS TO FORM:**

DATED: \_\_\_\_\_, 2023 \_\_\_\_\_  
Robert J. Wasserman  
Jenny D. Baysinger

DATED: 9/21, 2023 \_\_\_\_\_  
William R. Bailey  
Steve Pornbida  
Matthew J. Gustin  
Counsel for Defendants