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CALIFORNIA NATURAL PRODUCTS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

BEATRIZ CARAVANTES; ARSENIO
AMIGABLE; individually, and on behalf of
other members of the general public similarly
situated and on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Act,

Plaintiffs,

vs.

CALIFORNIA NATURAL PRODUCTS, a
California corporation; and DOES 1 through
100, inclusive,

Defendant.

Case No. STK-CV-UOE-2016-0005682

ASSIGNED FOR ALL PURPOSES TO:

JUDGE: CARTER P. HOLLY

DEPT.: 41

**SETTLEMENT AGREEMENT AND
STIPULATION TO RESOLVE:**

- 1. CLASS ACTION CLAIMS; and**
- 2. PAGA CLAIMS**

Date Action Filed: July 5, 2016

Trial Date: January 11, 2021

1 This *Settlement Agreement and Stipulation To Resolve (1) Class Action Claims; and*
2 *(2) PAGA Claims* is entered into to resolve the action entitled *Beatriz Caravantes, et al. v.*
3 *California Natural Products*, San Joaquin County Superior Court Case No. STK-CV-UOE-
4 0005682.

5 DEFINITIONS

6 1. Action. “Action” means *Beatriz Caravantes, et al. v. California Natural Products*,
7 San Joaquin County Superior Court Case No. STK-CV-UOE-2016-0005682.

8 2. Agreement or Settlement. “Agreement” or “Settlement” means this Settlement
9 Agreement and Stipulation To Resolve (1) Class Action Claims; and (2) PAGA Claims, entered
10 into by the Parties to resolve the Action.

11 3. Aggrieved Employees. “Aggrieved Employees” means Class Members who
12 worked during the PAGA Period (as defined in Paragraph 20).

13 4. Class Counsel. “Class Counsel” means Marlin & Saltzman, LLP and Lawyers for
14 Justice, PC.

15 5. Class or Class Members. “Class” or “Class Members” means all non-exempt
16 employees who worked for California Natural Products in the following positions during the Class
17 Period (as defined in Section 7 below): Blender/VTIS, Downstream Operator, Downstream
18 Specialist, Drum Filler Operator, ED Dryer Operator, Filler Operator, Filler Operator (PDO),
19 Processing Batch/Blender, Processing Blender, Rice Cookline Operator, Robotics, Roving
20 Quality Specialist or Quality Specialist, Silo Operator, Silo Specialist, Soup Cook, Soy Line
21 Operator, Spray Dryer Operator, Stretch Wrap Operator, UF Evaporator, VTIS Operator, and
22 VTIS Operator (PDO). The above-listed positions are “Class Positions.”

23 6. Class Notice. “Class Notice” means the Notice of Class Action Settlement,
24 attached as **Exhibit A** to this Agreement, or a substantially similar notice approved by the Court.
25 The Class Notice will be translated into Spanish by the Settlement Administrator and mailed to
26 Class Members in both English and Spanish.

27 7. Class Period. “Class Period” means the period beginning on June 10, 2012 and
28 extending through August 4, 2020.

- 1 8. Court. “Court” means the San Joaquin Superior Court, County of San Joaquin.
- 2 9. Defendant. “Defendant” means California Natural Products.
- 3 10. Effective Date. The “Effective Date” shall be the later of: (i) the 61st day after
4 service of notice of entry of the Final Order and Judgment, if no appeal, review, writ, or other
5 challenge has been filed; or (ii) if an appeal, review, writ, or other challenge is sought from the
6 Final Order and Judgment, the day after the Final Order and Judgment is affirmed or the appeal,
7 review, writ, or challenge is dismissed or denied, and the Final Order and Judgment is no longer
8 subject to further judicial review.
- 9 11. Final Hearing Date. “Final Hearing Date” means the date set by the Court for the
10 hearing on final approval of the Class Settlement.
- 11 12. Final Order and Judgment. “Final Order and Judgment” means the proposed order
12 granting final approval of the Class Settlement and entering judgment, which Plaintiff will submit
13 to the Court with the motion for final approval of the Settlement.
- 14 13. Gross Settlement Amount. “Gross Settlement Amount” means the total settlement
15 payment Defendant agreed to make under this Agreement inclusive of the Prior Settlement
16 Payment Credit (as defined in Section 24). The Gross Settlement Amount is \$1,750,000, inclusive
17 of the Prior Settlement Payment Credit.
- 18 14. Individual Settlement Payment. “Individual Settlement Payment” means the
19 individual settlement payment allocated to a Participating Class Member based on the Participating
20 Class Member’s *pro rata* share of the Net Settlement Amount, less any Prior Settlement Payment
21 to that Participating Class Member.
- 22 15. Named Plaintiff. “Named Plaintiff” means Beatriz Caravantes.
- 23 16. Notice Period. “Notice Period” means the time period commencing on the date the
24 Class Notice is mailed to Class Members and ending 45 days thereafter.
- 25 17. Net Settlement Amount. “Net Settlement Amount” means the settlement amount
26 to be distributed to Participating Class Members after payment of Class Counsel’s attorneys’ fees
27 and costs, any enhancement payments to Named Plaintiff, the PAGA Payment, and settlement
28 administration costs.

1 18. PAGA Claims. “PAGA Claims” means those claims in the Action brought
2 pursuant to the California Private Attorneys General Act (PAGA).

3 19. PAGA Payment. “PAGA Payment” means the amount of \$50,000.00, which
4 represents the portion of the Settlement allocated to the settlement of the PAGA Claims, 75% of
5 which is to be paid to the LWDA, and 25% of which is to be added to the Net Settlement Fund to
6 be distributed to the Aggrieved Employees. The PAGA Amount is paid from the Gross Settlement
7 Amount, and will be allocated as set forth in Paragraph 40.d.

8 20. PAGA Period. “PAGA Period” means the period beginning on May 31, 2015 and
9 ending on August 4, 2020.

10 21. Parties. “Parties” means the Defendant and the Named Plaintiff, individually and
11 on behalf of all Class Members and Aggrieved Employees (defined in Paragraph 3).

12 22. Participating Class Member. “Participating Class Member” means each Class
13 Member who has not timely opted out of the Class Settlement pursuant to Paragraph 45 of the
14 Agreement; “Plaintiff Class” means a class of all Participating Class Members.

15 23. Preliminary Approval Order. “Preliminary Approval Order” means an order from
16 the Court preliminarily approving this Settlement.

17 24. Prior Settlement Payments. “Prior Settlement Payments” means the payments
18 previously made by Defendant to Class Members in connection with the Class Members’
19 agreements to release claims against Defendant in the Action. The Prior Settlement Payments
20 equals \$52,700.00. The employer’s and employee’s share of payroll taxes were already paid in
21 connection with the Prior Settlement Payments and, therefore, no further payroll taxes are required
22 on this portion of the Gross Settlement Amount.

23 25. Released Parties. “Released Parties” means and includes California Natural
24 Products, Gehl Foods, LLC, Pat Mitchell including without limitation his family and heirs, and
25 each of their respective past, present, and future predecessors, successors, assigns, shareholders,
26 members, owners, officers, directors, investors, employees, managers, managing agents, partners,
27 affiliated companies or entities, parents, holding companies, agents, attorneys, insurers, and
28 representatives.

26. Settled Claims or Released Claims. “Settled Claims” or “Released Claims” means any and all claims, known or unknown, contingent or accrued, against Defendant and the Released Parties that arose on or before the Final Hearing Date and that have been, or could have been, asserted against Defendant or any of the other Released Parties, arising out of the facts, matters, transactions or occurrences alleged in the Action. Without limiting the foregoing, and in addition to the foregoing, the Settled Claims include claims for failure to pay regular wages, failure to pay overtime compensation, failure to provide and maintain complete and accurate itemized wage statements that included all information required by the California Labor Code; failure to provide meal periods and rest breaks or additional pay in lieu thereof; failure to reimburse business expenses; untimely payment of wages at the time of termination; violations of California Labor Code §§ 201, 202, 203, 204, 210, 218.6, 226, 226.3, 226.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, the applicable California Wage Orders; violation of California Business and Professions Code Section 17200 *et seq.*; and claims for penalties under California Labor Code Section 2698 *et seq.*

27. Settlement Administrator. “Settlement Administrator” means ILYM Group, Inc.

28. Settlement Hearing. “Settlement Hearing” means the hearing on the Final Hearing Date at which the Court will determine whether to fully and finally approve the fairness and reasonableness of this Agreement.

RECITALS

29. On or about June 10, 2016, Beatriz Caravantes and Arsenio Amigable filed the Action against defendant California Natural Products. On July 5, 2016, Plaintiffs filed a First Amended Complaint, adding other aggrieved employees pursuant to the California Private Attorneys General Act as plaintiffs. The First Amended Complaint alleges that Defendant violated various wage-and-hour laws, including: (1) failure to pay overtime; (2) failure to pay meal period premiums; (3) failure to pay rest period premiums; (4) failure to pay minimum wages; (5) failure to pay final wages timely ; (6) failure to pay wages timely during employment; (7) violation of Labor Code § 226; (8) failure to keep requisite payroll records; (9) failure to reimburse for business expenses; and (10) violation of California Business and Professions Code § 17200 *et seq.*

1 30. On December 28, 2016, Plaintiff Arsenio Amigable's individual action, and all
2 individual claims of Arsenio Amigable against defendant California Natural Products were
3 dismissed without prejudice.

4 31. Defendant denies that it engaged in any misconduct in connection with the wage-
5 and-hour practices associated with the Class Members. Defendant further denies that it has any
6 liability of any kind associated with the claims alleged in the Action. Defendant contends that it
7 has complied with both federal and state wage-and-hour laws, and all other laws regulating its
8 relationship with the Class Members, including the Named Plaintiff.

9 32. After a second mediation, the first having been unsuccessful, the Parties agreed to
10 a settlement of the Action, subject to Court approval. The Parties further agreed to enter into this
11 Agreement to memorialize their settlement.

12 33. Class Counsel has investigated the facts relating to the Action. Class Counsel are
13 of the opinion that the Settlement documented by this Settlement Agreement is fair, reasonable,
14 and adequate, and in the best interest of the Class in light of all known facts and circumstances,
15 including the risk of significant delay and defenses asserted to the merits of the Action, including
16 arbitration agreements entered into by Class Members requiring individual arbitration. While
17 Defendant specifically denies any liability in the Action, Defendant has agreed to enter into this
18 Settlement to avoid the costs associated with defending the Action.

19 **TERMS AND CONDITIONS**

20 NOW, THEREFORE, in consideration of the recitals listed above and the promises and
21 warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of
22 the consideration and undertakings set forth below, Named Plaintiff, individually and on behalf of
23 the Class Members, and Defendant agree that the Action shall be and is finally and fully
24 compromised and settled on the following terms and conditions:

25 34. Non-Admission Of Liability. The Parties enter into this Agreement to resolve the
26 dispute that has arisen between them and to avoid the burden, expense and risk of continued
27 litigation. In entering into this Agreement, Defendant and Released Parties do not admit, and
28 specifically deny, that they have violated any federal, state, or local law; violated any regulations

1 or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
2 requirements; breached any contract; violated or breached any duty; engaged in any
3 misrepresentation or deception; or engaged in any other unlawful conduct with respect to the Class.
4 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected
5 with it, shall be construed as an admission or concession by Defendant or Released Parties of any
6 such violations or failures to comply with any applicable law. Except as necessary in a proceeding
7 to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be
8 offered or received as evidence in any action or proceeding to establish any liability or admission
9 on the part of Defendant or to establish the existence of any condition constituting a violation of,
10 or a non-compliance with, federal, state, local or other applicable law.

11 35. Conditional Nature Of Class Settlement. For settlement purposes *only*, the Parties
12 agree that (a) a class may be certified in the Action pursuant to California Code of Civil Procedure
13 Section 382, and (b) the Action may proceed as a PAGA representative action.

14 a. The Parties intend their settlement to be contingent upon the preliminary
15 and final approval of each and every term of this Agreement, without material modification. If the
16 Court does not so approve this Agreement, the Parties will meet and confer and cooperate in good
17 faith to resolve any issues raised by the Court. Should no resolution be reached, the Parties intend
18 this Agreement to become null and void, and unenforceable, in which event the settlement terms
19 set forth in this Agreement, including any modifications made with the consent of the Parties, and
20 any action taken or to be taken in connection with this Agreement shall be terminated and shall
21 become null and void and have no further force or effect, and the class certified pursuant to this
22 Agreement will be decertified for all purposes.

23 b. In the event that the Court does not grant preliminary or final approval of
24 the Parties' settlement, or in the event that this Agreement shall terminate or the settlement
25 embodied in this Agreement does not become effective for any reason, the Agreement and all
26 negotiations, court orders and proceedings relating to the Agreement shall be without prejudice to
27 the rights of the Named Plaintiff, Class Members and Defendant, each of whom shall be restored
28 to their respective positions existing prior to the execution of this Agreement, and evidence relating

1 to the Agreement and all negotiations shall not be discoverable or admissible in the Action or any
2 other litigation. Defendant does not waive, and instead expressly reserves, its rights to challenge
3 the propriety of class certification for any purpose should the Court not grant preliminary or final
4 approval of the Parties' settlement.

5 c. If the Court grants the Preliminary Approval Order, but does not grant final
6 approval of the Settlement, then the Preliminary Approval Order will be vacated in its entirety. In
7 addition, if the Court does not grant final approval of the Settlement, neither this Agreement, the
8 Preliminary Approval Order, nor any other document in any way relating to the foregoing, shall
9 be relied upon, referred to, or used in any way for class certification proceedings or representative
10 action proceedings in the Action or any other action. Defendant does not waive, and instead
11 expressly reserves, its rights to challenge the propriety of class certification for any purpose should
12 the Court not grant final approval of the Settlement.

13 d. In the event that the Settlement does not achieve final approval, and is set
14 aside as noted above, then the Parties agree and stipulate hereby that the entire time from June 5,
15 2020 until the date of denial of the Settlement shall be excluded from any computation of the 5-
16 year rule under Code of Civil Procedure § 583.310.

17 36. Participating Class Member Release Of Claims. As of the occurrence of the
18 Effective Date, the Named Plaintiff and all Participating Class Members do and shall be deemed
19 to have fully, finally, and forever released, settled, compromised, relinquished and discharged any
20 and all of the Released Parties of and from any and all Settled Claims.

21 a. This release by the Named Plaintiff and each Participating Class Member is
22 intended to settle any and all of the Settled Claims as set forth in Paragraph 26 above, whether
23 known or unknown, that any of them may have against the Released Parties during the Class
24 Period.

25 b. As of the occurrence of the Effective Date, the Named Plaintiff and the
26 Participating Class Members shall be permanently enjoined and forever barred from prosecuting
27 any and all Settled Claims released pursuant to this Section 36 against the Released Parties. Thus,
28 subject to and in accordance with this Agreement, even if the Named Plaintiff or any Participating

1 Class Member may subsequently discover facts in addition to or different from those they now
2 know or believe to be true with respect to the subject matter of the Released Claims, they shall be
3 deemed to have, and by operation of the Final Judgment shall have fully, finally, and forever settled
4 and released any and all Settled Claims, whether known or unknown, suspected or unsuspected,
5 contingent or non-contingent, whether or not concealed or hidden, which now exist, or have existed
6 upon any theory of law or equity now existing or coming into existence in the future, including,
7 but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any
8 duty, law, or rule, without regard to the subsequent discovery or existence of such different or
9 additional facts.

10 c. The Parties agree for settlement purposes only that, because the Class
11 Members are so numerous, it is impossible or impracticable to have each Class Member execute
12 this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature
13 of the release and such notice will have the same force and effect as if the Agreement were
14 executed by each Class Member.

15 d. The Named Plaintiff and Class Counsel represent, covenant, and warrant
16 that they have not directly or indirectly assigned, transferred, encumbered or purported to assign,
17 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
18 cause of action, or rights released and discharged by this Agreement, except as set forth in this
19 Agreement.

20 37. Aggrieved Employees Release of PAGA Claim: In exchange for the PAGA
21 Amount recited in this Agreement, the Named Plaintiff, as the representative for the State of
22 California and all Aggrieved Employees, and on behalf of their current, former, and future heirs,
23 executors, administrators, attorneys, agents, and assigns will forever completely release and
24 discharge the Released Parties from the PAGA Claim. The Aggrieved Employees and the State
25 of California are deemed by operation of the Final Order and Judgment to have agreed not to sue
26 or otherwise make a claim against any of the Released Parties for the PAGA Claims.

27 38. Full Release By The Named Plaintiff. As of the occurrence of the Effective Date,
28 the Named Plaintiff fully releases and discharges Defendant and the other Released Parties from

1 the Released Claims and any other claims that the Named Plaintiff ever had against the Released
2 Parties through the date of execution of the Agreement. Without limiting the generality of the
3 foregoing, the Named Plaintiff specifically and expressly releases to the maximum extent
4 permitted by law any claims against the Released Parties, arising out of or relating to the Named
5 Plaintiff's employment or the termination of her employment with Defendant and any other
6 Released Party. This general release by the Named Plaintiff includes a waiver of their rights under
7 Civil Code Section 1542, which provides: "A general release does not extend to claims that the
8 creditor or releasing party does not know or suspect to exist in his or her favor at the time of
9 executing the release and that, if known by him or her, would have materially affected his or her
10 settlement with the debtor or released party."

11 39. Settlement Payments And Calculation Of Claims. The following table summarizes
12 the allocation of the Gross Settlement Amount:

13 **Gross Settlement Amount of \$1,750,000.00 Is Broken Down As Follows:**

- 14 • **Approximately \$1,012,500.00** paid to Class Members on a *pro rata* basis (this
15 amount includes all Prior Settlement Payments)
- 16 • **\$50,000.00** for the PAGA Amount
 - 17 ○ **\$37,500.00** for the LWDA Payment
 - 18 ○ **\$12,500.00** for payments to Aggrieved Employees
- 19 • **Class Counsel Attorneys' Fees** not to exceed **\$612,500.00**
- 20 • **Class Counsel Costs** not to exceed **\$50,000.00**
- 21 • **Up to \$10,000.00** for Enhancement for Named Plaintiff (see definition in
22 Paragraph 40)
- 23 • **Settlement Administration Costs**, not to exceed **\$15,000.00**

24 40. Subject to final Court approval and the conditions specified in this Agreement, and
25 in consideration of the mutual covenants and promises set forth in this Agreement, Defendant
26 agrees to pay the Gross Settlement Amount of \$1,750,000.00, less the Prior Settlement Payments
27 in the amount of \$52,700.00, or \$1,697,300.00 total in new money. The Gross Settlement Amount
28 includes, but is not limited to, payments to be made to Participating Class Members, Class
Counsel's attorneys' fees and costs, any enhancement payments to the Named Plaintiff, the PAGA
Payment, settlement administration fees and costs, and all payroll taxes. For the avoidance of
doubt, Defendant shall not be required to pay any amount over \$1,697,300.00 for this Settlement.

1 The Parties agree, subject to Court approval, that the Gross Settlement Amount shall be
2 apportioned as follows:

3 a. Class Counsel Fees/Costs: At the final approval hearing, Class Counsel will
4 apply to the Court for an award of attorneys' fees of no more than 35% of the Gross Settlement
5 Amount, which equals \$612,500.00. Class Counsel will also apply to the Court for an award of
6 costs incurred by Class Counsel not to exceed the amount of \$50,000.00. These fees and costs are
7 included in, and shall come from, the Gross Settlement Amount. Class Counsel will be issued an
8 IRS Form 1099 for any fees and costs awarded by the Court pursuant to this Section 40a. Except
9 as provided in this Section 40a, each party will bear his, her, or its own attorneys' fees, costs, and
10 expenses incurred in the prosecution, defense, or settlement of the Action. If the Court awards less
11 than the amount requested, any amount not awarded will be part of the distribution to the
12 Participating Class Members and shall not be a reason to invalidate/terminate this Agreement.

13 b. Settlement Administrator Costs: At the final approval hearing, Class
14 Counsel will apply to the Court for approval of settlement administration costs not to exceed the
15 amount of \$15,000.00. These costs are included in, and shall come from, the Gross Settlement
16 Amount.

17 c. Enhancements: At the final approval hearing, Class Counsel will apply to
18 the Court for an award of \$10,000.00 to be paid to the Named Plaintiff as an enhancement award
19 for her services and for assuming the risks associated with this litigation, and as consideration for
20 providing a general release. Defendant will not oppose such application. The enhancement award
21 is included in, and shall come from, the Gross Settlement Amount. Named Plaintiff will be issued
22 an IRS Form 1099 for any enhancement award approved by the Court pursuant to this Section.
23 The enhancement award payable to the Named Plaintiff shall be in addition to any payment she
24 may receive pursuant to Section 40e, below. If the Court awards less than the amount requested,
25 any amount not awarded will be part of the distribution to the Participating Class Members and
26 shall not be a reason to invalidate/terminate this Agreement.

27 d. PAGA Payment: At the final approval hearing, Class Counsel will apply to
28 the Court for approval of the PAGA Amount of \$50,000.00 for claims for civil penalties asserted

1 under PAGA. Class Counsel will submit notice of this Settlement to the LWDA, as required by
2 Labor Code § 2699(l)(2). The Parties agree that 75% of the PAGA Amount (\$37,500.00) will be
3 paid to the LWDA as the LWDA Payment, and the remaining 25% (\$12,500.00) of civil penalties
4 will be allocated to the Aggrieved Employees. The amount allocated to the Aggrieved Employees
5 will be paid using the same formula as set forth in Section 40e, but will be limited to weeks worked
6 during the PAGA Period. Any Class Members who worked during the PAGA Period and who opt
7 out of the Settlement will still be considered Aggrieved Employees for purposes of this Section 40d
8 and, therefore, will (i) receive their portion of the PAGA Aggrieved Employee Payment; and
9 (ii) release all PAGA Claims against the Released Parties that were alleged in the Action.

10 e. Class Member Payments: After deducting the approved amounts specified
11 in Sections 40a-40d above, each Participating Class Member will be entitled to a *pro rata* portion
12 of the remaining amount less any Prior Settlement Payment received by the Participating Class
13 Member. Individual Settlement Payments will be calculated from the Net Settlement Amount
14 based on the respective number of weeks worked by each Participating Class Member in a Class
15 Position during the Class Period, rounded up. Each Participating Class Member's share of the Net
16 Settlement Amount will be calculated by dividing the Participating Class Member's weeks worked
17 by the total number of weeks worked by all Class Members during the Class Period and
18 multiplying this figure by the Net Settlement Amount. The Class Notice will include the number
19 of weeks that the Class Member worked during the Class Period and the amount the Class Member
20 is estimated to receive under the terms of the Settlement. If a Participating Class Member received
21 a Prior Settlement Payment, the Prior Settlement Payment will be subtracted from the Class
22 Member's Individual Settlement Payment. In no case shall the amount subtracted for a Prior
23 Settlement Payment exceed the individual Class Member's share of the Net Settlement Amount.

24 Example: Class Member A worked 50 workweeks during the Class Period.
25 All Class Members who worked during the Class Period worked a total of 50,000
26 workweeks. Class Member A's Individual Settlement Payment would be calculated as
27 follows:

28 – 50 workweeks worked by Class Member A ÷ 50,000 workweeks for all

Class Members = 0.1%.

- Class Member A would be entitled to an Individual Settlement Payment in the amount of \$1,012.50 (0.1% x \$1,012,500).
- If Class Member A received a Prior Settlement Payment of \$100, Class Member A would receive \$912.50.
- If Class Member is also an Aggrieved Employee, Class Member will also receive a *pro rata* share of the PAGA Payment, as set forth in Section 40d.

f. The Parties acknowledge and agree that the formula used to calculate the Individual Settlement Payments does not mean that all of the elements of damages, restitutionary relief, and penalties alleged in the Action are not being taken into account. The above formula was devised as a practical and logistical method to simplify the participation process.

g. Individual Settlement Payments shall be distributed only to Participating Class Members. PAGA Payments will be distributed to all Aggrieved Employees. The Individual Settlement Payments allocated to Class Members who opt out of the Settlement will be distributed to Participating Class Members on a *pro rata* basis based on the formula set forth in Section 40e.

h. The Parties agree that, under no circumstances shall Defendant be obligated to pay any amount under this Agreement to any Class Member other than Participating Class Members, with the exception of the PAGA Payments. In addition, the Parties agree that under no circumstances shall Defendant be obligated to pay more than the Gross Settlement Amount less the Prior Settlement Payment Credit amount of \$52,700.00, or \$1,697,300.00 total in new money, in full settlement of the Action. The Parties further agree that no amount of the Gross Settlement Amount shall revert to Defendant.

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

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

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

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

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

24 c. The Parties stipulate that the Settlement Fund (as defined at Section 47) will
25 qualify as a settlement fund pursuant to the requirements of Section 468(B)(g) of the Internal
26 Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the income tax regulations.
27 Furthermore, the Settlement Administrator is designated as the "Administrator" of the qualified
28 settlement funds for purposes of Section 1.468B-2(k) of the income tax regulations. As such, all

1 taxes imposed on the gross income of the Settlement Fund and any tax-related expenses arising
2 from any income tax return or other reporting document that may be required by the Internal
3 Revenue Service or any state or local taxing body will be paid from the Settlement Fund.

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

11 43. Notice Procedure. Within 15 business days after entry of the Preliminary Approval
12 Order, Defendant will provide to the Settlement Administrator a list of Class Members that
13 identifies for each Class Member their name, Social Security Number, last-known address, the
14 number of weeks worked by each Class Member during the Class Period and the PAGA Period,
15 the amount of any Prior Settlement Payment to the Class Member, and the amount payable to each
16 Class Member the "Class List." Defendant will provide the Class List in an Excel file or other
17 format reasonably acceptable to the Settlement Administrator. The Settlement Administrator will
18 keep the list confidential and use it only for the purposes described in this Agreement.

19 a. Upon receipt of the Class List, the Settlement Administrator shall perform
20 a search based upon the National Change of Address Database to update and correct any known
21 or identifiable address changes. The Settlement Administrator shall exercise its best judgment to
22 determine the current mailing address for each Class Member. Within 15 calendar days after
23 receipt of the Class List from Defendant, the Settlement Administrator will send the Class Notice,
24 in English and in Spanish, to each Class Member via First Class U.S. Mail. It shall be presumed
25 that each and every Class Member whose Class Notice is not returned to the Settlement
26 Administrator as undeliverable within 15 calendar days after mailing received the Class Notice.

27 b. The Settlement Administrator will re-mail any notice packet returned by the
28 United States Postal Service with a forwarding address on or before the expiration of the Notice

1 Period. It shall be conclusively presumed that those Class Members whose re-mailed Class Notice
2 is not returned to the Settlement Administrator as undeliverable within 15 calendar days after re-
3 mailing, received the Class Notice. Class Members who receive a re-mailed Class Notice shall
4 have their Notice Period extended 15 calendar days.

5 c. The Settlement Administrator will use the appropriate skip tracing and
6 National Change of Address searches to increase the likelihood of delivery of the Class Notice to
7 Class Members, and to re-mail the notice packets returned by the post office without a forwarding
8 address upon locating new or alternate addresses after a reasonable search.

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

13 44. Challenge Procedure. The Class Notice will include a procedure by which a Class
14 Member may challenge the weeks allocated to the Class Member by submitting a written challenge
15 sent via U.S. Mail to the Settlement Administrator postmarked no later than the expiration of the
16 Notice Period. A Class Member challenging the weeks must also submit documentary evidence
17 sufficient to prove that Defendant's calculation of the weeks for the Class Member is incorrect.
18 Upon receipt of notice of any such dispute, the Settlement Administrator shall promptly serve
19 Class Counsel and Defendant's counsel with a copy of the notice of dispute and any accompanying
20 papers. No such notice of dispute shall be effective or considered for any purpose unless it is
21 timely mailed by U.S. mail to and received by the Settlement Administrator as provided above.
22 Defendant shall have the right to respond to the challenge by any Class Member. All information
23 and documents relating to any such disputes will be provided to Class Counsel. The Settlement
24 Administrator will resolve the challenge and make a final and binding determination without
25 hearing or right of appeal. The Settlement Administrator's determination will be subject to review
26 by the Court at the time of the Final Approval Hearing so long as the Participating Class Member
27 submits an objection to the Settlement Administrator's determination at or before the Final
28 Approval Hearing.

1 a. Within 10 calendar days after the close of the Notice Period, the Settlement
2 Administrator will provide Class Counsel and Defendant's counsel with a report listing the amount
3 of all Individual Settlement Payments and PAGA Payments to be made to Participating Class
4 Members and Aggrieved Employees. The report to Class Counsel will not include the names or
5 contact information of Participating Class Members and Aggrieved Employees. After receiving
6 the Settlement Administrator's report, Class Counsel and Defendant's counsel shall review the
7 same to determine if the calculation of payments to Participating Class Members and Aggrieved
8 Employees is consistent with this Settlement Agreement.

9 45. Opt-Out Procedure. Unless a Class Member opts out of the settlement described in
10 this Agreement, the Class Member will be bound by the terms and conditions of this Agreement,
11 including the release provisions set forth herein and the Court's Order enjoining all Participating
12 Class Members from pursuing, or seeking to re-open, any of the Settled Claims against the
13 Released Parties. A Class Member will not be entitled to opt out of the settlement established by
14 this Agreement unless the Class Member does all of the following: (i) makes a written request
15 expressing the Class Member's desire to be excluded (or opt out) of the Settlement; (ii) signs said
16 written request; and (iii) mails the opt-out request so that it is postmarked on or before the
17 expiration of the Notice Period. The Notice shall set forth the minimum language needed to be
18 used by a Class Member in order to effect an opt-out from the Class Settlement.

19 a. Upon receipt of any opt-out request within the Notice Period, the Settlement
20 Administrator shall review the request to confirm that the request complies with the opt-out
21 requirements of this Agreement.

22 b. Any Class Member who fails to submit a timely, complete and valid request
23 to opt out of the settlement will be barred from opting out of this Agreement or the settlement,
24 unless otherwise ordered by the Court. The Settlement Administrator will not review or consider
25 any opt-out request postmarked after the end of the Notice Period, but will report its receipt of any
26 such requests to Class Counsel and counsel for Defendant. It shall be presumed that, if an opt-out
27 request is not postmarked on or before the end of the Notice Period, the Class Member did not
28 make the request in a timely manner, unless the Class Member's Notice Period was extended

1 pursuant to Section 43.b, above. A declaration submitted by any Class Member attesting to the
2 mailing of an opt-out request on or before the expiration of the Notice Period in and of itself shall
3 be insufficient to overcome the conclusive presumption that the opt-out request was not
4 postmarked on or before the expiration of the Notice Period. Under no circumstances shall the
5 Settlement Administrator have the authority to extend the deadline for Class Members to submit a
6 request to opt out of the settlement without Defendant's written consent, except for the 15-day
7 extension of a Class Member's Notice Period due to a re-mailed Class Notice, as set forth in
8 Section 43.b, above.

9 c. If 5% or more of the Class Members timely opt out of the settlement,
10 Defendant will have the sole and absolute discretion to withdraw from this Agreement within 15
11 business days after expiration of the Notice Period by providing written notice of such withdrawal
12 to Class Counsel. In the event that Defendant elects to so withdraw, the withdrawal shall have the
13 same effect as a termination of this Agreement for failure to satisfy a condition of settlement, and
14 the Agreement shall become null and void and have no further force or effect, and the class
15 certified pursuant to this Agreement will be decertified for all purposes. If Defendant chooses to
16 terminate this Settlement Agreement under this provision, it shall be responsible to pay the
17 Settlement Administrator's fees and costs. If the Settlement Agreement is terminated for any other
18 reason, including the Court's failure to grant final approval of the Parties' settlement, then Class
19 Counsel and Defendant will be jointly responsible for the Settlement Administrator's fees and
20 costs.

21 46. Objections To Settlement. Any Class Member may object to the Settlement. Any
22 written objection must be mailed to the Settlement Administrator (who shall promptly provide a
23 copy to Class Counsel and counsel for Defendant) by the close of the Notice Period. Class Counsel
24 will ensure that any written objections get filed with the Court concurrently with the final approval
25 documents. Class Members who have not objected in writing may not be heard at the final fairness
26 hearing unless the Court elects to hear them, because the Parties will not have received notice of
27 the objection and thus will not have been able to respond thereto in writing before the hearing. If
28 a Class Member does not submit a written objection, either personally or through counsel, such

1 objection shall be deemed waived, unless otherwise ordered by the Court.

2 a. Written objections to the Settlement must contain at least the following:

3 (i) the objecting Class Member's full name, current address, and signature; (ii) a clear reference to
4 the Action; and (iii) a statement of the specific reasons why the objector believes the Settlement is
5 unfair or objects to the Settlement. All objections shall be signed by the objecting Class Member
6 or the Class Member's legally authorized representative.

7 b. Class Counsel or Defendant's counsel may, before the final approval
8 hearing, file responses to any written objections submitted to the Court.

9 c. Unless they opt out of the Settlement as specified in Section 45, Class
10 Members who object to the proposed settlement or the Agreement will remain Participating Class
11 Members, and shall be deemed to have voluntarily waived their right to pursue an independent
12 remedy against Defendant and the other Released Parties. To the extent any Participating Class
13 Member objects to the proposed settlement or Agreement and such objection is overruled in whole
14 or in part, such individuals will be bound by the Court's Final Approval Order.

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

18 e. In the event that a Class Member timely submits both an objection and an
19 opt-out request, the opt-out request will be rejected and the objection accepted.

20 47. Funding And Distribution Of Settlement. Within 21 calendar days of the close of
21 the Notice Period, the Settlement Administrator will provide written notice to Class Counsel and
22 Defendant's counsel of the number of Participating Class Members, the total amount payable to
23 all Participating Class Members, the PAGA Payment, attorneys' fees and costs, the enhancement
24 award, and the costs of settlement administration. Within five business days after the Effective
25 Date, Defendant shall remit to the Settlement Administrator the Gross Settlement Amount of
26 \$1,750,000.00 less the Prior Settlement Payments amount of \$52,700.00, or \$1,697,300.00 total in
27 new money (the "Settlement Fund"). The delivery by Defendant of the Settlement Fund to the
28 Settlement Administrator will constitute full and complete discharge of the entire obligation of

1 Defendant under this Agreement. After having funded the Settlement Fund, no Released Party
2 will have any further obligation or liability to the Named Plaintiff, Participating Class Members,
3 Aggrieved Employees, or Class Counsel under this Agreement, regardless of whether the Named
4 Plaintiff, Participating Class Members, Aggrieved Employees, or Class Counsel receive the
5 payments set forth in this Agreement.

6 a. The distribution of Individual Settlement Payments to Participating Class
7 Members and PAGA Payments to Aggrieved Employees will occur no later than 15 business days
8 after receipt of the Settlement Fund from Defendant (“Settlement Proceeds Distribution
9 Deadline”). The Settlement Administrator shall be deemed to have timely distributed Individual
10 Settlement Payments and PAGA Payments if it places in the mail Individual Settlement Payments
11 for all Participating Class Members and PAGA Payments for all Aggrieved Employees by the
12 Settlement Proceeds Distribution Deadline. No person will have any claim against the Settlement
13 Administrator, Defendant, Class Counsel, Defendant’s counsel, or any other agent designated by
14 the Named Plaintiff or Class Counsel based upon the distribution of Individual Settlement
15 Payments and PAGA Payments made substantially in accordance with this Agreement or further
16 orders of the Court.

17 b. The distribution of the LWDA Payment, attorneys’ fees, costs, and the
18 enhancement award shall occur no later than 15 business days after the Settlement Administrator
19 receives the Settlement Fund from Defendant.

20 c. If a Participating Class Member’s or Aggrieved Employee’s check is
21 returned to the Settlement Administrator, the Settlement Administrator will make reasonable
22 efforts to re-mail it to the Participating Class Member or Aggrieved Employee at the correct
23 address. It is expressly understood and agreed that the checks for the Individual Settlement
24 Payments and PAGA Payments will become void and no longer available if not cashed within 90
25 days after mailing. The funds from uncashed and voided checks will be transferred to the State of
26 California’s Unclaimed Property Fund in the name of the Participating Class Member.

27 d. Defendant will not be obligated to make any payments contemplated by this
28 Agreement unless and until the Court enters the Final Order and Judgment, and after the Effective

1 Date of the Agreement.

2 48. Binding Effect Of Agreement On Class Members. Subject to final Court approval
3 and the occurrence of the Effective Date, and unless otherwise provided in this Agreement, all
4 Participating Class Members will be bound by this Agreement. In addition, unless a Class Member
5 opts out of the settlement described in this Agreement, the Class Member shall be bound by the
6 Court's Order enjoining all Class Members from pursuing, or seeking to reopen, Settled Claims
7 against the Released Parties.

8 49. Binding Effect Of Agreement On Aggrieved Employees and State of California.
9 The Aggrieved Employees and the State of California are deemed by operation of the Final Order
10 and Judgment to have agreed not to sue or otherwise make a claim against any of the Released
11 Parties for civil penalties under Labor Code § 558 and Labor Code §§ 2698 *et seq.* for the Released
12 Claims.

13 50. Provisional Approval Of Settlement. Upon execution of this Agreement, the
14 Named Plaintiff will promptly file a motion in the Action requesting that the Court enter the
15 Preliminary Approval Order. Defendant will not oppose Class Counsel's motion for preliminary
16 approval of the settlement so long as the motion and supporting papers are consistent with the
17 terms of this Agreement. Class Counsel will provide Defendant's counsel with a reasonable
18 opportunity to review, and provide comments to, the motion for preliminary approval of the
19 settlement before the motion and supporting papers are filed with the Court. Notwithstanding the
20 foregoing, Defendant may, without opposing the preliminary approval motion, advise the Court if
21 Defendant disagrees with any of the factual statements included by the Named Plaintiff in the
22 motion and supporting papers. Defendant's counsel will meet and confer with Class Counsel
23 regarding any factual statements it disputes before notifying the Court of any disputes.

24 51. Non-Interference With Claims Procedure. The Parties and their counsel agree that
25 they will not seek to solicit or otherwise encourage Class Members to submit requests for exclusion
26 or objections to the settlement or to appeal from the Final Order or Final Judgment.

27 52. Final Order and Judgment. The Named Plaintiff will request that the Court enter,
28 after the Settlement Hearing finally approving this Agreement, a Final Order and Judgment.

1 Named Plaintiff will request that the Final Order and Judgment certify the Participating Class; find
2 that this Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the
3 Class and the Aggrieved Employees; permanently enjoin all Participating Class Members from
4 pursuing, or seeking to reopen, Settled Claims against the Released Parties; permanently enjoin
5 the Aggrieved Employees and the State of California from pursuing a PAGA Claim against the
6 Released Parties for any of the Released Claims; and require the Parties to carry out the provisions
7 of this Agreement.

8 53. Automatic Voiding Of Agreement If Settlement Not Finalized. If for any reason
9 the settlement set forth in this Agreement does not become final, and only after the Parties meet
10 and confer and cooperate in good faith to resolve any issues raised by the Court, the settlement
11 will be null and void and the orders, judgment, and dismissal to be entered pursuant to this
12 Agreement shall be vacated, and the Parties will be returned to the status quo prior to entering this
13 Agreement with respect to the Action, as if the Parties had never entered into this Agreement, and
14 the class certified pursuant to this Agreement will be decertified for all purposes. In addition, in
15 such event, the Agreement and all negotiations, court orders and proceedings relating to this
16 Agreement shall be without prejudice to the rights of any and all parties to this Agreement, and
17 evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in
18 the Action or otherwise.

19 54. No Double Recovery. No person who has already released, assigned, or otherwise
20 forfeited the claims asserted in the Action will be considered a Class Member or entitled to recover
21 under this Agreement. For the avoidance of doubt, this Section 54 does not include Participating
22 Class Members who received a Prior Settlement Payment, as discussed in paragraph 40.e of this
23 Agreement.

24 55. No Publicity. The Named Plaintiff and Class Counsel agree that they shall not
25 discuss, answer questions about, promote, or publicize the filing of the Action, the Parties'
26 settlement, this Agreement and its terms, or the negotiations leading to this Agreement with anyone
27 other than the Court or those individuals necessary to effectuate the terms of the Agreement. The
28 prohibition set forth in this Section 55 includes, but is not limited to: (i) publications on any

1 website (including, without limitation, publishing on any Twitter account, Facebook, or blog) of
2 the amount or terms of the settlement, with or without identifying information; and (ii) the
3 submission of information to Verdicts & Settlements or any other publication that summarizes the
4 results of jury verdicts and settlements.

5 a. Notwithstanding the foregoing, Class Counsel may respond to questions
6 received from, and discuss any aspect of this Agreement with, Class Members.

7 b. The Named Plaintiff and Class Counsel agree that all data and information
8 informally produced by Defendant in connection with this Action will be maintained in
9 confidence, and will not be shared with any other persons or entities.

10 56. Invalidation Of Agreement For Failure To Satisfy Conditions. If the Court makes
11 material changes to the material terms or conditions of Sections 1 through 55 of this Agreement
12 that are not agreed to by the Defendant, and after meeting and conferring with the Plaintiff counsel
13 to attempt in good faith to resolve any such issues, Defendant shall have the right to terminate this
14 Agreement, in which case Defendant would not be obligated to make any payments to any Class
15 Member, to Class Counsel, or to the Named Plaintiff.

16 57. Modification In Writing. This Agreement may be altered, amended, modified or
17 waived, in whole or in part, only in a writing signed by Class Counsel and Defendant's counsel.
18 This Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

19 58. Ongoing Cooperation. The Named Plaintiff and Defendant will execute all
20 documents and perform all acts necessary and proper to effectuate the terms of this Agreement.
21 The executing of documents must take place prior to the Final Hearing Date. In the event the
22 Parties are unable to reach agreement on the form or content of any document needed to implement
23 the Settlement, or any supplemental provisions that may become necessary to effectuate the terms
24 of the Settlement, the Parties agree to seek the assistance of the Court.

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

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1 representations or terms shall modify, vary, or contradict the terms of this Agreement.

2 62. Execution In Counterparts. This Agreement may be signed in one or more
3 counterparts. All executed copies of this Settlement Agreement, and photocopies of the
4 Agreement (including DocuSign, facsimile, e-mail copies, and cell phone pictures of the signature
5 pages), shall have the same force and effect and shall be as legally binding and enforceable as the
6 original. If the signature is provided by a cell phone picture, the party providing such signature
7 will mail the original, wet signature page to her or its counsel.

8 63. Captions. The captions, section numbers, and paragraph numbers, in this
9 Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or
10 describe the scope or intent of the provisions of this Agreement.

11 64. Governing Law. This Agreement shall be interpreted, construed, enforced, and
12 administered in accordance with the laws of the State of California, without regard to conflict of
13 law rules.

14 65. Reservation Of Jurisdiction. Notwithstanding the dismissal of the Action and entry
15 of the Final Order and Judgment, the Court shall retain jurisdiction for purposes of interpreting
16 and enforcing the terms of this Agreement.

17 66. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
18 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
19 against one party than another merely by virtue of the fact that it may have been prepared by
20 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
21 between the Parties, all Parties have contributed to the preparation of this Agreement.

22 67. Severability. The Parties to this Agreement agree, covenant, and represent that
23 each and every provision of this Agreement shall be deemed to be contractual, and that they shall
24 not be treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree,
25 covenant, and represent that each and every provision of this Agreement shall be considered
26 severable, except for the release provisions of Paragraphs 26 and 36 of this Agreement. If a court
27 of competent jurisdiction finds the release provisions of Paragraphs 26 or 36 of this Agreement to
28 be unenforceable or invalid, then this Agreement shall be voidable in Defendant's sole discretion

1 and, if voided by Defendant, all payments made pursuant to this Agreement will be returned to
2 Defendant. If a court of competent jurisdiction finds any provision other than the release
3 provisions of Paragraphs 26 or 36 of this Agreement, or part thereof, to be invalid or unenforceable
4 for any reason, that provision, or part thereof, shall remain in full force and effect to the extent
5 allowed by law, and all of the remaining provisions of this Agreement shall remain in full force
6 and effect.

7 68. Representation and Warranties. Class Counsel, the Named Plaintiff, and the Class
8 jointly and severally represent and warrant to Defendant that there are no attorneys beyond those
9 named as Class Counsel who have claims for fees arising out of the Action or the Settlement
10 contemplated by this Agreement. To the extent those representations are false or other attorneys
11 do have claims for fees arising out of the Action or this Settlement, Class Counsel and the Class
12 jointly and severally agree to fully indemnify Defendant for any damages it incurs as a result of
13 those claims, including, but not limited to, all attorneys' fees and costs.

14 69. Authorization to Act. With respect to themselves, each of the Parties to this
15 Agreement and their agents or counsel represents, covenants and warrants that (a) they have full
16 power and authority to enter into and consummate all transactions contemplated by this Agreement
17 and have duly authorized the execution, delivery and performance of this Agreement and (b) the
18 person executing this Agreement has the full right, power and authority to enter into this
19 Agreement on behalf of the party for whom he/she has executed this Agreement, and the full right,
20 power and authority to execute any and all necessary instruments in connection with the
21 Settlement, and to fully bind such party to the terms and obligations of this Agreement.

22 70. Representation By Counsel. The Parties acknowledge that they have been
23 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
24 and that this Agreement has been executed with the consent and advice of counsel. Further, the
25 Named Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement
26 Agreement, and that after entry by the Court of the Final Order and Judgment, the Settlement
27 Administrator may distribute funds to Participating Class Members, Aggrieved Employees, Class
28 Counsel, the LWDA, and the Named Plaintiff as provided by this Agreement.

1 71. Authorization By The Named Plaintiff. The Named Plaintiff authorizes Class
2 Counsel to sign this Agreement and further agrees not to request to be excluded from the Class
3 and not to object to any terms of this Agreement. Any such request by the Named Plaintiff for
4 exclusion or objection shall be void and of no force or effect.

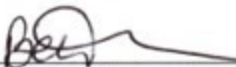
5 72. Attorneys' Fees and Costs. No Participating Class Member, Aggrieved Employee,
6 or Class Counsel, or any other attorney acting for any Participating Class Member or Aggrieved
7 Employee, may recover or seek to recover any amounts for fees, costs, or disbursements from the
8 Released Parties or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

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

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

22 IT IS SO AGREED:

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24 Dated: 10, 21, 2020

By: 
Beatriz Caravantes
Named Plaintiff

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Dated: October 2, 2020

CALIFORNIA NATURAL PRODUCTS

By: T. [Signature]
Title: CFO

APPROVED AS TO FORM AND CONTENT AND
AGREE TO BE BOUND BY PARAGRAPH 55:

Dated: October 22, 2020

MARLIN & SALTZMAN

By: [Signature]
Attorney for Plaintiff

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

BEATRIZ CARAVANTES; *et al.*

Plaintiff,

vs.

CALIFORNIA NATURAL PRODUCTS, *et al.*,

Defendants.

Case No. STK-CV-UOE-2016-0005682

ASSIGNED FOR ALL PURPOSES TO
HONORABLE CARTER P. HOLLY
DEPARTMENT 10B

NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT AND FINAL FAIRNESS
HEARING

YOU MAY BE ENTITLED TO BENEFITS FROM THIS SETTLEMENT. YOUR ESTIMATED SETTLEMENT AMOUNT IS \$ _____. PLEASE CONTINUE READING TO LEARN HOW THIS SETTLEMENT AFFECTS YOUR RIGHTS.

Notice is hereby given that a proposed class action settlement (the “Class Settlement”) has been reached between plaintiff Beatriz Caravantes (“Plaintiff”) and defendant California Natural Products (“Defendant”).

The lawsuit is a class action lawsuit entitled *Beatriz Caravantes, et al. v. California Natural Products, et al.* (the “Litigation” or “Action”). Plaintiff and Defendant have reached a settlement of the Litigation, and the San Joaquin County Superior Court (the “Court”) has granted preliminary approval of the settlement.

The Class Settlement will resolve all Settled Claims made against Defendant and other Released Parties, as that term is defined in the Settlement Agreement, on behalf of all non-exempt employees who worked for California Natural Products in the following positions (“Class Positions”) during the period between June 10, 2012 and August 4, 2020 (the “Class Period”): Blender/VTIS, Downstream Operator, Downstream Specialist, Drum Filler Operator, ED Dryer Operator, Filler Operator, Filler Operator (PDO), Processing Batch/Blender, Processing Blender, Rice Cookline Operator, Robotics, Roving Quality Specialist or Quality Specialist, Silo Operator, Silo Specialist, Soup Cook, Soy Line Operator, Spray Dryer Operator, Stretch Wrap Operator, UF Evaporator, VTIS Operator, and VTIS Operator (PDO). Employees who worked in these Class Positions during the Class Period are referred to herein as “Class Members.”

A. PURPOSE OF THIS NOTICE

The Court has ordered that this Class Notice be sent to you because Defendant’s records reflect that you are a Class Member, meaning that you worked for the Defendant in one of the listed positions during the Class Period also listed above. The purpose of this Notice is to: (a) provide a brief description of the Litigation; (b) inform you of the proposed Class Settlement; and (c) discuss your rights and options with respect to the Litigation and the Class Settlement.

B. DESCRIPTION OF THE LITIGATION

The Lawsuit was filed by Plaintiff on behalf of Class Members. As alleged in the Lawsuit, Plaintiff claims that Class Members were wrongfully denied wages and overtime compensation, meal and rest breaks, accurate wage statements, and other rights guaranteed under the California Labor Code.

The Lawsuit alleged class allegations against Defendant for (1) unpaid overtime; (2) unpaid meal period premiums; (3) unpaid rest period premiums; (4) unpaid minimum wages; (5) failure to pay final wages upon termination of employment; (6) wages not timely paid during employment; (7) non-compliant wage statements; (8) failure to keep payroll records; (9) unreimbursed business expenses; (10) derivative claims under Business & Professions Code § 17200; and (11) derivative claims for PAGA penalties under Labor Code § 2698 *et seq.* The time period at issue in the Complaint is June 10, 2012 through the present (the “Class Period”), although some claims are subject to a shorter limitations period (e.g., the PAGA claims and itemized wage statement claims are subject to a one-year statute of limitations). Defendant denies each and all of the claims and contentions alleged by the Plaintiff.

The Court has made no ruling on the merits of the claims asserted in the Lawsuit or Defendant’s defenses. The Court has, however, granted preliminary approval to the Class Settlement between Plaintiff and Defendant. The Court will decide whether to give final approval to the Class Settlement at a hearing scheduled for [REDACTED], 2021, at [REDACTED] a.m., in Department 41 of the San Joaquin County Superior Court, located at San Joaquin County Superior Court, [address].

Attorneys for the Class (“Class Counsel”) in the Litigation are:

MARLIN & SALTZMAN, LLP
Stanley D. Saltzman
Corey S. Smith
29800 Agoura Road, Suite 210
Agoura Hills, California 91301-1555
Telephone: 818-991-8080

LAWYERS FOR JUSTICE, PC
Edwin Aiwasian
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: 818-265-1020

Defendant’s counsel in the Litigation are:

RUTAN & TUCKER, LLP
Brian C. Sinclair, Esq.
Brandon Sylvia, Esq.
611 Anton Boulevard, Fourteenth Floor
Costa Mesa, California 92626-1931
Telephone: (714) 641-5100
Facsimile: (714) 546-9035

C. YOUR OPTIONS

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

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

If you want to participate in the Class Settlement and receive your Settlement Payment, **DO NOT TAKE ANY ACTION**. You will automatically be included in the Settlement and will receive the Settlement Payment as detailed below. If you move, make sure you contact the Settlement Administrator at the following address or phone number:

CNP SETTLEMENT ADMINISTRATOR
[INSERT ADDRESS AND PHONE NUMBER]

YOUR ESTIMATED SETTLEMENT AMOUNT IS \$ _____, less the prior settlement payment you received in the amount of \$-----]. This amount is based on the number of workweeks you worked in Class Position during the Class Period, which is _____ workweeks. The settlement amount is just an estimate of your individual class settlement payment ("Settlement Payment"). The exact Settlement Payment allocated to you will not be determined until the class notice process is completed and the Court grants final approval of the Class Settlement.

If you believe the number of workweeks you worked in a Class Position stated above is incorrect, please send a letter to the Settlement Administrator before [date], which clearly states what you believe is the correct number of workweeks. You should submit any documentary evidence that you might have that would be sufficient to prove that Defendant's calculation of workweeks for you is incorrect. Also, please provide your name, address, and daytime telephone number. Defendant will have the right to respond to the challenge by any Class Member. The Settlement Administrator will resolve the challenge and make a final and binding determination without hearing or right of appeal. If you want confirmation that your correspondence has been received by the Settlement Administrator, you may send your letter by certified U.S. Mail with a return receipt request.

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

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

If you do not want to remain a member of the Class, you can request exclusion from the Class (i.e., "opt out"). You can opt out of the Class by mailing a written, signed Request for Exclusion to the Class Settlement Administrator at the above-stated address, such that it is **postmarked** no later than [date]. This Request for Exclusion must contain the following information: (a) your printed full name (and any other names used while employed by Defendant), (b) your full address, and (c) the following language: "I want to be excluded from the class action settlement involving California Natural Products described in the Class Notice that I received, dated [date]." This request must be **signed** by you. If you opt out of the Class Settlement, you will no longer be a member of the Class, you will be barred from participating in this Class Settlement, and you will receive no benefit from this Class Settlement. By opting out of the Class, you will retain whatever rights or claims you may have, if any, against Defendant.

3. OPTION 3: Object to the Settlement

If you are a Class Member and you do not opt out of the Class Settlement, you may object to the Class Settlement, personally or through an attorney, by submitting your objection to the Settlement Administrator (ILYM Group), at the address set forth above. All written objections must be signed and must contain your

address, telephone number and a reference to the case name and number. All objections must be **postmarked** no later than [date], which is 45 days from the date that this Class Notice was mailed. Your written objection should clearly explain why you object to the Class Settlement and must state whether you (or someone on your behalf) intend to appear at the final fairness hearing on [date]. Your failure to timely submit your objection to the Settlement Administrator may preclude your objection from being heard at the final fairness hearing. If you object to the Class Settlement and if the Court approves the Class Settlement as set forth in the Settlement Agreement, you will be bound by the terms of the Class Settlement in the same way as a Class Member who does not object.

D. SUMMARY OF TERMS OF SETTLEMENT

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

1. Settlement Terms

The Class Settlement provides that (a) Defendant will pay \$1,750,000.00 (the “Settlement Amount”) to resolve all class claims asserted in the Action, the requested enhancement award, and Class Counsel’s attorneys’ fees and costs, as described more fully below; and (b) Defendant will stipulate to the certification of the Class for settlement purposes only, conditioned upon the Court granting final approval of the Class Settlement.

- Attorneys’ Fees and Costs. Class Counsel will apply to the Court for an award of attorneys’ fees of no more than \$612,500.00, which is 35% of the Class Settlement Amount. In addition, Class Counsel will seek reimbursement of costs of no more than \$50,000.00, as well as settlement administration costs of \$15,000.00. The attorneys’ fees and costs will be paid out of the Settlement Amount.
- Class Representative Enhancement Award. Plaintiff will request an enhancement award of \$10,000.00. The enhancement award will be paid out of the Settlement Amount.
- LWDA Payment. A \$50,000.00 payment will be made for PAGA penalties, of which \$37,500.00 will be paid to the Labor and Workforce Development Agency pursuant to the California Private Attorneys General Act, and the remaining \$12,500 will be paid to Aggrieved Employees, as defined in the Settlement Agreement.
- Payments To Participating Class Members. After the deductions from the total Settlement Amount, the remaining amount of approximately \$1,012,500.00 will remain to be distributed to Participating Class Members based on each Class Member’s workweeks based on the following calculation

$\frac{\$1,012,500}{\text{[Insert Number] of Eligible Workweeks Worked By All Class Members}}$	x	Workweeks Worked By The Individual Participating Class Member
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- Some Class Members received prior settlement payments from Defendant in connection with their individual agreements to release claims against Defendant in the Lawsuit.

Class Members who received such payment will have those amounts deducted from their individual settlement payments.

Settlement Payment To You: Section C of this Notice includes the estimated amount that you are entitled to receive under the Class Settlement. The individual settlement payments to Class Members will vary based on a number of factors, including the Court's ruling on payment of fees, costs and reimbursements, and the incentive award. The Settlement Payment will be mailed to you within approximately 90 days of the Court's Order granting final approval of the Class Settlement. If you change your address, please notify the Settlement Administrator.

Taxes: For purposes of this settlement, one-third of your Settlement Payment will be considered wages, one-third of your Settlement Payment will be considered interest, and one-third of your Settlement Payment will be considered penalties. Prior to mailing your Settlement Payment, the Settlement Administrator will calculate and deduct from your Settlement Payment an amount necessary to pay the required withholdings and taxes, including all payroll taxes, on the wage portion of the settlement only. The Settlement Administrator will remit that money to the appropriate governmental agencies. The Settlement Administrator will also issue you appropriate tax forms, including an IRS Form 1099 and W-2 Form. Employer-side payroll taxes (e.g., FUTA, FICA, FICAMED, and SUTA) will be paid by Defendants separate from and in addition to the Settlement Amount. They will not be paid out of the Settlement Amount.

Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

2. Release

The Class Settlement provides that each Class Member who does not opt out of the settlement fully releases and discharges Defendant and the Released Parties from any and all claims, known or unknown, contingent or accrued, against Defendant and the Released Parties that arose on or before the final hearing date and that have been, or could have been, asserted against Defendant or any of the other Released Parties, arising out of the facts, matters, transactions or occurrences alleged in the Action. Without limiting the foregoing, and in addition to the foregoing, the Settled Claims include claims for failure to pay regular wages, failure to pay overtime compensation, failure to provide and maintain complete and accurate itemized wage statements that included all information required by the California Labor Code; failure to provide meal periods and rest breaks or additional pay in lieu thereof; failure to reimburse business expenses; untimely payment of wages at the time of termination; violations of California Labor Code §§ 201, 202, 203, 204, 210, 218.6, 226, 226.3, 226.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, the applicable California Wage Orders; violation of California Business and Professions Code Section 17200 *et seq.*; and claims for penalties under California Labor Code Section 2698 *et seq.*

"Released Parties" means and includes California Natural Products, Gehl Foods, LLC, Pat Mitchell including without limitation his family and heirs, and each of their respective past, present, and future predecessors, successors, assigns, shareholders, members, owners, officers, directors, investors, employees, managers, managing agents, partners, affiliated companies or entities, parents, holding companies, agents, attorneys, insurers, and representatives.

3. Conditions Of The Settlement

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

4. No Admission Of Liability

Defendant does not admit any wrongdoing or liability, and specifically denies any liability or wrongdoing. The Class Settlement reflects a compromise of disputed claims and does not mean that Defendant violated any state wage requirements or are liable for any of the allegations made by Plaintiff.

E. FAIRNESS HEARING ON PROPOSED SETTLEMENT

You are not required to attend the final fairness hearing or file an objection, although you may do both. The final fairness hearing on the fairness and adequacy of the Class Settlement, the plan of distribution, costs of administration, the enhancement award to Plaintiff, and Class Counsel's request for attorneys' fees and costs will be held on _____ a.m., in Department 41 of the San Joaquin County Superior Court, 180 E. Weber Ave., Stockton, California 95202. The final fairness hearing may be continued to another date without further notice. If you plan to attend the final fairness hearing, you may contact Class Counsel to confirm the date and time.

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

F. ADDITIONAL INFORMATION

This Notice only summarizes the Lawsuit and the Class Settlement. For more information, you may inspect the Court files at the San Joaquin County Superior Court, 180 E. Weber Ave., Stockton, California 95202, from 8:00 a.m. to 5:00 p.m., Monday through Friday or you can view the case records online at the court's website: <https://www.sjcourts.org/online-services/>. Click "Online Services, then click "Case Management Search," then click "Log In." Follow the instructions for submitting the Case Number: CV-2016-0005682: 2016. Then click "retrieve", then click "Document Mgmt" to view the case record. Any questions regarding this Class Notice or the Action may be directed to the Settlement Administrator at the above address and telephone number. Alternatively, you may contact Class Counsel at the address and telephone number set forth above, or you may contact your own attorney, at your own expense, to advise you regarding the settlement.. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

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