

1 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE**

2 This Class Action and PAGA Settlement Agreement is entered into by and between
3 Plaintiffs Gabriel Sager (“Plaintiff Sager”) and Elizabeth Adams (“Plaintiff Adams”)
4 (collectively, at times “Plaintiffs”), individually and on behalf of all others similarly situated, and
5 Defendant Summit Food Service, LLC (collectively with Plaintiffs, the “Parties”), and is
6 approved by their respective counsel of record, subject to the terms and conditions hereof and the
7 Court’s approval.

8 The Parties agree as follows:

9 **A. Definitions**

10 The following definitions are applicable to this Settlement Agreement. Definitions
11 contained elsewhere in this Settlement Agreement will also be effective:

12 1. “Action” or “Lawsuit” means and refers to the case entitled *Sager v. Summit Food*
13 *Service, LLC*, Sonoma County Superior Court, Case Nos. SCV-270486 & SCV-271061 and
14 *Adams v. Summit Food Service, LLC*, Placer County Superior Court, Case No. S-CV-0048656.

15 2. “Aggrieved Employees” means all persons who are or were previously employed
16 by Defendant in California classified as a non-exempt hourly employee at any time from April 8,
17 2021, until September 1, 2023.

18 3. “Agreement,” “Settlement Agreement and Release,” “Settlement,” or
19 “Stipulation” shall mean this Class Action and PAGA Settlement Agreement and Release of
20 Claims, including any attached Exhibits.

21 4. “Class Claims” or “Released Class Claims” will include all claims asserted and
22 which could have been asserted in the operative complaints, and any future amendments to the
23 operative complaints, including, but not limited to, state wage and hour claims for any and all
24 violations of California’s Labor Code and Unfair Competition Law based on Defendant’s failure
25 to pay for all hours worked (including minimum, straight time, and overtime wages), failure to
26 provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages
27 at termination, failure to furnish accurate itemized wage statements, civil penalties under PAGA
28 based on the alleged Labor Code violations, and all damages, interest, penalties, attorneys’ fees,

costs, and other amounts recoverable under said causes of action under California law, to the extent permissible, including, but not limited to, the California Labor Code and the applicable Wage Orders.

5. “Class Counsel” refers to Justin Marquez, Benjamin H. Haber, and Arrash T. Fattahi of Wilshire Law Firm, PLC, Mehrdad Bokhour of Bokhour Law Group, P.C. and Joshua Falakassa of Falakassa Law, P.C., collectively.

6. “Class Data” means a complete list that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator on one spreadsheet and shall include the Settlement Class Members’ full names; last known addresses; telephone numbers; Social Security Numbers; and dates of employment and/or number of Workweeks Worked in California as non-exempt or hourly employees of Defendant during the Class Period and the PAGA Period for each Settlement Class Member.

7. “Class Period” and “Class Release Period” shall mean March 29, 2018 through September 1, 2023.

8. “Class Representatives” or “Plaintiffs” means and refers to Gabriel Sager and Elizabeht Adams.

9. “Complaint” refers to the original complaint and any amended complaints filed in the Action.

10. “Court” means the California Superior Court, County of Sonoma or any other Court of competent jurisdiction.

11. “Defendant” means and refers to Summit Food Service, LLC.

12. “Defendant’s Counsel” or “Defense Counsel” means and refers to Tracy Costantino of Littler Mendelson, P.C.

13. “Effective Date” shall mean (i) in the event that the Settlement has received final approval by the Court and there were no timely objections filed, or that any timely objections have been withdrawn, then the date the Court’s order of final approval of the Settlement; (ii) in the event that one or more timely objections has/have been filed and not withdrawn, then upon the passage of the applicable date for an objector to seek appellate review of the trial court’s order

1 of final approval of the Settlement, without a timely appeal having been filed; or, (iii) in the event
2 that a timely appeal of the Court's order of final approval has been filed, then the Settlement shall
3 be final when the applicable appellate court has rendered a final decision or opinion affirming the
4 trial court's final approval without material modification, and the applicable date for seeking
5 further appellate review has passed, or the date that any such appeal has been either dismissed or
6 withdrawn by the appellant

7 14. "Final Settlement Class" means, collectively, all Participating Class Members and
8 all Aggrieved Employees.

9 15. "Individual Settlement Amount" shall have the meaning ascribed to it in Paragraph
10 47(d) below.

11 16. "Net Settlement Amount" shall have the meaning ascribed to it in Paragraph 48(c)
12 below.

13 17. "Notice" means the notice of settlement of Class Action and PAGA Settlement
14 that will be sent to the Settlement Class Members.

15 18. "Notice Response Deadline" is forty-five (45) calendar days from the date the
16 Notice is mailed to the Settlement Class Members.

17 19. "Objecting Settlement Class Member" means a Settlement Class Member, other
18 than Plaintiffs, who submits a valid and timely objection to the terms of this Agreement with
19 respect to the Class Claims pursuant to Paragraph 71(a) below.

20 20. "PAGA" shall refer to the California Labor Code Private Attorneys General Act
21 of 2004, California Labor Code sections 2698–2699.5.

22 21. "PAGA Claims" or "Released PAGA Claims" shall include any and all claims for
23 civil penalties pursuant to PAGA based on the allegations stated in the PAGA Notices and that
24 were or could have been pled in the Complaint based on the facts alleged therein , including but
25 not limited to claims all claims asserted in the operative complaints, and any future amendments
26 to the operative complaints, including, but not limited to, state wage and hour claims for any and
27 all violations of California's Labor Code and Unfair Competition Law based on Defendant's
28 failure to pay for all hours worked (including minimum, straight time, and overtime wages),

1 failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay
2 final wages at termination, failure to furnish accurate itemized wage statements, civil penalties
3 under PAGA based on the alleged Labor Code violations, and all damages, interest, penalties,
4 attorneys' fees, costs, and other amounts recoverable under said causes of action under California
5 law, to the extent permissible, including, but not limited to, the California Labor Code and the
6 applicable Wage Orders.

7 22. "PAGA Notice" shall refer to the notices sent by Plaintiffs, by and through
8 counsel, to the LWDA and to Defendant, alleging that Defendant engaged in violations of the
9 California Labor Code and California Wage Order(s).\

10 23. "PAGA Period" and "PAGA Release Period" shall mean April 8, 2021, until
11 September 1, 2023.

12 24. "Participating Class Member" means any and all Settlement Class Members who
13 receive an Individual Settlement Amount for the Class Claims and who do not opt-out of the
14 settlement of the Class Claims by submitting timely and valid Requests for Exclusion.

15 25. "Parties" or "Settling Parties" mean Plaintiffs, the Settlement Class Members, the
16 Aggrieved Employees, and Defendant, collectively.

17 26. "Preliminary Approval Date" means the date on which the Court enters an order
18 granting preliminary approval of the Settlement Agreement.

19 27. "Preliminary Approval Order" means the judicial Order to be entered by the Court,
20 upon the application or motion of the Plaintiffs, preliminarily approving this Settlement and
21 providing for the issuance of the Notice to the Settlement Class Members, an opportunity to opt
22 out of settlement of the Class Claims, an opportunity to submit timely objections to the terms of
23 this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of
24 Settlement, including approval of attorneys' fees and costs.

25 28. "QSF" means the Qualified Settlement Fund managed by the Settlement
26 Administrator for the benefit of the Final Settlement Class, and from which the settlement
27 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue
28 Code Section 468.

29. “Release” shall mean the complete release and discharge of the Class Claims by Plaintiffs and all of the Participating Class Members and the complete release and discharge of the PAGA Claims by Plaintiffs and all of the Aggrieved Employees against Defendant.

30. “Released Parties” shall refer to Defendant, its current and former officers, directors, members, employees, managers, shareholders, agents, insurers, charitable organizations, parents, subsidiaries, affiliates, operators, partners, attorneys, predecessors in interest, successors, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and assignees, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, if any.

31. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 71(a) below.

32. “Service Payment” or “Service Award” means the amount approved by the Court to be paid to Class Representatives in addition to their Individual Settlement Amount as Participating Class Members.

33. “Settlement Administration Costs” means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount.

34. “Settlement Administrator” means and refers to Phoenix Class Action Administration Solutions, which the Parties have mutually agreed will provide the Notice to the Class Members and distribute the settlement amounts as described in this Agreement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

35. “Settlement Amount” or “Gross Settlement Amount” shall have the meaning

ascribed to it in Paragraph 48(a) below.

36. “Settlement Class Member” or “Class Member” refers to individual members of the Settlement Class.

37. “Settlement Class” and “Settlement Class Members” refers to all persons who are or were previously employed by Defendant in California classified as a non-exempt employee during the Class Period.

38. “Workweeks Worked” for each Settlement Class Member and Aggrieved Employee means any workweek during the Class Period and/or the PAGA Period, as applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed by Defendant as a non-exempt employee in California and worked at least one shift during the workweek for Defendant. Workweeks Worked shall not include weeks where a Settlement Class Member and/or Aggrieved Employee only had sick time, vacation time, was on leave, or otherwise did not record any actual work time in Defendant’s timekeeping system. Workweeks Worked will be calculated based on Defendant’s business records.

B. General Terms

39. On March 29, 2022, Plaintiff Sager filed her class action complaint in Sonoma Superior Court alleging various violations of the California Labor Code.

40. On or about June 23, 2022, Plaintiff Adams filed her class action complaint in Placer Superior Court County alleging various violations of the California Labor Code.

41. Plaintiffs intend to file a First Amended Complaint to consolidate both actions.

42. Defendant denies Plaintiffs’ claims and allegations and contends that the Action is not suitable for class certification and/or representative treatment.

43. Class Representatives believe they can proceed with their class and representative claims, that the Action is meritorious, and that class certification is appropriate.

44. The Parties have conducted a thorough investigation into the underlying facts and circumstances of the Action. This has included conducting extensive exchanges of informal discovery, including Defendant’s employee handbooks and related written policies and practices, the production of records showing the mileage of Settlement Class Members and Aggrieved

1 Employees and the production of payroll and timekeeping records for Settlement Class Members
2 and Aggrieved Employees. Class Counsel is both knowledgeable about and has done extensive
3 research with respect to the applicable law and potential defenses to the claims of the Settlement
4 Class Members and Aggrieved Employees. Class Counsel has diligently pursued an investigation
5 of the Class Members' claims against Defendant. Based on the foregoing data and on their own
6 independent investigation and evaluation, Class Counsel is of the opinion that the settlement with
7 Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair,
8 reasonable, and adequate and is in the best interests of the Settlement Class Members and
9 Aggrieved Employees in light of all known facts and circumstances, including the risk of
10 significant delay and uncertainty associated with litigation, various defenses asserted by
11 Defendant, and numerous potential appellate issues.

12 45. On March 22, 2023, and June 2, 2023, the Parties participated in mediation before
13 David Phillips, a highly experienced class action mediator. Although the Parties did not reach a
14 settlement during the first mediation, they continued their extensive and arms-length negotiations,
15 through Mr. Phillips, and reached a settlement following the second mediation.

16 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
17 to be performed or judgments to be entered pursuant to the terms of the Settlement and
18 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
19 any statute, law, wage order, or liability in any capacity regarding the claims or allegations in the
20 Action.

21 47. Stipulation for Class Certification and Representative Treatment. For settlement
22 purposes only, Defendant will stipulate that the Settlement Class Members described herein who
23 do not Request Exclusion from the Settlement Class may be conditionally certified as a settlement
24 class and that the Aggrieved Employees are appropriate for representative treatment for purposes
25 of settlement. This stipulation to certification and representative treatment is in no way an
26 admission that class action certification and/or representative treatment is proper and shall not be
27 admissible in this or in any other action except for the sole purposes of enforcing this Agreement.
28 Should, for whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to

1 class certification and representative treatment as part of the Settlement shall become null and
2 void *ab initio* and shall have no bearing on and shall not be admissible in connection with the
3 issue of whether or not class certification and/or representative treatment would be appropriate in
4 any other context. Defendant expressly reserves its rights and declares that it will continue to
5 oppose class certification, representative treatment, and the substantive merits of the case should
6 the Court fail to issue Final Approval. Plaintiffs expressly reserve their right and declare that they
7 will continue to pursue class certification and representative treatment and a trial should the Court
8 fail to issue Final Approval.

9 **C. Terms of Settlement**

10 48. The financial terms of the Settlement are as follows:

11 (a) Gross Settlement Amount: The Parties agree to settle this Action for Three
12 Hundred Twelve Thousand Five Thousand Dollars (\$312,500.00) (“the Settlement Amount”).
13 The Settlement Amount is the maximum amount that will be paid by Defendant, and includes
14 Individual Settlement Amounts, all attorneys’ fees of Class Counsel, costs and expenses, the
15 Service Payment to Class Representatives, all Settlement Administration Costs, and payment to
16 the Labor Workforce Development Agency (LWDA) for PAGA penalties. Defendant shall
17 separately pay the employers’ share of applicable payroll taxes.

18 (b) Defendant represents that as of June 2, 2023 there were no more than 9,220
19 workweeks worked by the Class Members during the Class Period. In the event the number of
20 workweeks worked by the Class Members increases by more than 7%, or 645, then the Maximum
21 Settlement Amount shall be increased proportionally by the workweeks worked in excess of 9,865
22 multiplied by the workweek value or Defendant has the option of electing to have the Class Period
23 run through the date the total number of workweeks has reached 9,865 (the “New Class Period
24 End Date”). Should Defendant elect to increase the Maximum Settlement Amount, the workweek
25 value shall be calculated by dividing the Maximum Settlement Amount by 9,220 workweeks.
26 The Parties agree that the workweek value is \$33.89 (\$312,500.00 / 9,220 workweeks). Thus, for
27 example, should there be 10,000 workweeks in the Class Period, then the Maximum Settlement
28 Amount shall be increased by \$4,575.15 ([10,000 workweeks – 9,865 workweeks] x

1 [\$33.89/workweek]).

2 (c) Net Settlement Amount: The “Net Settlement Amount” is defined as the
3 Settlement Amount less attorneys’ fees and litigation costs as approved and awarded by the Court,
4 the Service Payment of \$10,000 to each of the Class Representatives as approved and awarded
5 by the Court, the Settlement Administration Costs, as approved and awarded by the Court, and
6 the Fifteen Thousand Dollars (\$15,000.00) PAGA payment to the LWDA and Five Thousand
7 Dollars (\$5,000.00) payment to Aggrieved Employees related to PAGA penalties as described in
8 paragraph 48(d) below. In the event that the Court reduces the attorneys’ fees and litigation costs
9 or Service Awards, Settlement Administration Costs, or either increases or decreases the amount
10 allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased accordingly.

11 (d) Individual Settlement Amounts for the Settlement Class: The Settlement
12 Administrator will use the Class Data provided by Defendant to calculate each Participating Class
13 Member’s and Aggrieved Employee’s Individual Settlement Amount based on the following
14 formula:

15 i. PAGA Amount: \$10,000 of the Gross Settlement Amount has been
16 designated to the PAGA claims. Twenty-five percent (25%) or \$2,500, shall be paid out to
17 Aggrieved Employees, while seventy-five percent (75%), or \$7,500, will be paid to the LWDA.
18 Each Aggrieved Employee shall receive a portion of the \$2,500 proportionate to the number of
19 Workweeks Worked by the Aggrieved Employees during the PAGA Period compared to the total
20 number of Workweeks Worked by all Aggrieved Employees during the PAGA Period. Aggrieved
21 Employees shall have their settlement amount for the Released PAGA claims paid one hundred
22 percent (100%) as civil penalties for which no taxes will be withheld and for which a Form 1099
23 will be issued by the Settlement Administrator.

24 ii. Class Amount: The Net Settlement Amount shall be allocated to each
25 Participating Class Member based on his/her/their proportionate Workweeks Worked during the
26 Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the
27 numerator of which is the Participating Class Member’s total Workweeks Worked during the
28 Class Period, and the denominator of which is the total Workweeks Worked by all Participating

Class Members during the Class Period. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

(e) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated for tax purposes based on the allegations in the Action as follows: fifteen percent (15%) will be paid as wages subject to withholding of all applicable local, state, and federal taxes; and eighty five percent (85%) will be paid as interest and as civil penalties (pursuant to, *e.g.*, California Labor Code sections 203, 226) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the civil penalties and interest allocations.

(f) Service Payment to Class Representative: The amount awarded to Class Representatives as a Service Payment will be set by the Court in its discretion, not to exceed \$10,000. Defendant agrees not to oppose this request. The Service Payment to Class Representatives will be paid out of the Gross Settlement Amount. Class Representatives will be issued IRS Form 1099 in connection with this payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiffs less than the requested amount shall not be a basis for Plaintiffs or Class Counsel to void this Stipulation. Should the Court approve a lesser amount for any Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. In the event of any appeal of the amount of any Service Payment (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts not awarded to Class Representatives shall be added to the Net Settlement Amount to be distributed to the Participating Class Members.

(g) Attorneys' Fees and Costs: Defendant agrees not to oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement Amount (approximately \$104,166.67), plus reasonable litigation costs not to exceed \$25,000

1 (“Attorneys’ Fees and Cost Award”). For purposes of this Settlement, Defendant agrees not to
2 oppose any contention by Class Counsel that attorneys’ fees should be based on the common fund
3 theory. The Attorneys’ Fee and Cost Award shall be paid from the Gross Settlement Amount, and
4 except for this award, Defendant shall have no further obligation to pay any attorneys’ fees, costs,
5 or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by
6 Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to
7 the Participating Class Members. Any Court order awarding less than the amount sought by Class
8 Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the
9 Settlement. In the event of any appeal of the amount of the awards of attorneys’ fees and costs (if
10 any) approved by the Court, final funding and administration of the portion of the attorneys’ fees
11 and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate
12 review. If, after the exhaustion of any such appellate review, additional amounts not awarded to
13 as attorneys’ fees and costs shall be added to the Net Settlement Amount to be distributed to the
14 Participating Class Members and/or Aggrieved Employees. It is understood and agreed by the
15 Parties, Class Counsel and Defendant’s counsel that no amounts designated herein as Class
16 Counsel’s attorney’s fees or expenses are accessible or otherwise available to Class Counsel until
17 the payment amount and method are agreed to by Class Counsel and the Settlement Administrator
18 pursuant to a distribution agreement and the Joint Prosecution and Fee-Sharing Agreement. IRS
19 Form 1099s shall be issued to Class Counsel reflecting the amount of attorneys’ fees and costs
20 awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class
21 Counsel and any other attorney representing or claiming to represent the Class Members shall be
22 the sole responsibility of Class Counsel.

23 (h) Settlement Administration Costs: The fees and other charges of the Settlement
24 Administrator will be paid from the Gross Settlement Amount, not to exceed \$10,000 subject to
25 Court approval, unless approved by all Parties and the Court.

26 (j) Tax Liability: Class Counsel, Defendant, and Defendant’s Counsel make no
27 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder,
28 and Plaintiffs and the Settlement Class Members are not relying on any statement or

representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiffs and Final Settlement Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Amounts described herein. Income tax withholding will also be made pursuant to applicable federal, state, and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

49. No Credit Towards Benefit Plans. The Individual Settlement Payments and Individual PAGA Payments made to Participating Class Members and/or Aggrieved Employees under this Settlement, as well as any other payment made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members and/or Aggrieved Employees may be eligible, including but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect the rights, contributions, or amounts to which any Class Member and/or Aggrieved Employees may be entitled under benefit plans.

50. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendant. Final Settlement Class Members will not have to make a claim to receive an Individual Settlement Amount. Individual distributions, in the form of Individual Settlement Amounts, will be made directly to each Final Settlement Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth herein.

51. Class Counsel and Plaintiffs believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. Release by Plaintiffs and the Final Settlement Class

52. Upon the Effective Date of this Settlement, Plaintiffs and each Participating Class Member, together and individually, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, shall be deemed to have fully, forever, and completely released and discharged all of the Released Parties from, or any of them, from each of the Released Class Claims arising during the Class Release Period.

53. Each Participating Class Member will be deemed to have made the foregoing Release as if by manually signing it.

54. Upon the Effective Date of this Settlement, Plaintiffs, the LWDA, and each Aggrieved Employee, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released PAGA Claims for the PAGA Release Period.

55. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

56. Plaintiffs and Defendant intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Settlement Class Members shall be notified in the Notice. This paragraph does not apply to any Settlement Class Member who timely and validly opts out of the Settlement for purposes of Class Claims.

57. Plaintiffs and Defendant intend that the Settlement described in this Agreement will release and preclude any further claims, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by the LWDA to obtain recovery based on,

1 arising out of, and/or related to any and all of the Released PAGA Claims.

2 58. Class Representatives, on behalf of themselves and the Participating Settlement
3 Class Members, acknowledge and agree that the claims are disputed, and that the payments set
4 forth herein constitute payment of all sums allegedly due to each of them. Class Representatives,
5 on behalf of themselves and the Participating Settlement Class Members, acknowledge and agree
6 that California Labor Code Section 206.5 is not applicable to the Parties hereto. Section 206.5
7 provides in pertinent part as follows:

8 An employer shall not require the execution of any release of any claim or right on
9 account of wages due, or to become due, or made as an advance on wages to be
10 earned, unless payment of those wages has been made.

11 **E. Release by Class Representatives**

12 59. With the exception of Plaintiff Adams pending individual lawsuit against
13 Defendant, which Plaintiff Adams will be permitted to pursue, in addition to Class
14 Representatives' release of the Released Class Claims and Released PAGA Claims, as discussed
15 in Paragraphs 52 and 54 above, Class Representatives do hereby, for themselves and for their
16 respective spouses, domestic partners, marital community, children, estates, trusts, attorneys,
17 heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees,
18 conservators, guardians, assigns, and representatives, forever completely release and discharge
19 the Released Parties from any and all charges, complaints, claims, liabilities, obligations,
20 promises, agreements, contracts, controversies, damages, actions, causes of action, suits, rights,
21 demands, costs, losses, debts, and expenses (including for back wages, statutory penalties, civil
22 penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any
23 nature whatsoever, from the beginning of time through the execution of this Stipulation, whether
24 known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to
25 all claims arising out of, based upon, or relating to Class Representatives' employment with
26 Defendant or the remuneration for or termination of such employment (collectively, the "Class
27 Representatives' Claims").

28 60. Without limiting the generality of the foregoing, Class Representatives also

1 expressly release all claims or rights against Released Parties arising out of or relating to alleged
2 violations of any contracts, express or implied (including but not limited to any contract of
3 employment); any contract or covenant of good faith and fair dealing (express or implied); any
4 tort, including but not limited to, negligence, fraud, misrepresentation and violation of California
5 Labor Code section 970, negligent infliction of emotional distress, intentional infliction of
6 emotional distress, defamation, “retaliation” claims and claims for violation of public policy, any
7 claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid
8 wages, unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and
9 alleged “off the clock” work under federal and state law, including, but not limited to, California
10 Labor Code Sections 204 and 558, waiting time penalties pursuant to California Labor Section
11 203, damages, or penalties pursuant to California Labor Code Section 226, meal period and rest
12 break payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure
13 to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or
14 civil penalties pursuant to California Labor Code Sections 210, failure to indemnify for business
15 expenses pursuant to Labor Code section 2802, failure to provide one day of rest in seven pursuant
16 to California Labor Code Sections 551 and 552, any other claim under the California Labor Code,
17 including but not limited to any claims for whistleblower retaliation under Labor Code section
18 1102.5, unfair competition and unfair business practices pursuant to Business and Professions
19 Code Section 17200 *et seq.*, interest and costs pursuant to California Civil Code Section 3287 and
20 California Labor Code Section 218.6, statutory or common law rights to attorneys’ fees and costs,
21 including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the Private
22 Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged violation or
23 breach of any other state or federal statute, rule, and or regulation; including all applicable
24 Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not
25 limited to, any claim for restitution, equitable relief, interest, penalties, costs, or attorneys’ fees
26 in connection with any of the foregoing, negligent infliction of emotional distress, intentional
27 infliction of emotional distress, and defamation; any “wrongful discharge,” “constructive
28 discharge,” and “retaliation” claims; any claims relating to any breach of public policy; any legal

1 restrictions on Defendant's right to discharge employees; and any federal, state, or other
2 governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the
3 Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or
4 harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. §
5 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California Labor Code 197.5
6 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq. (disability
7 discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. (family/medical
8 leave); (6) California Fair Employment and Housing Act, Cal. Government Code § 12900 *et seq.*
9 (discrimination or harassment in employment and/or housing, including discrimination or
10 harassment based on race, religious creed, color, national origin, ancestry, disability, marital
11 status, sex (including pregnancy), or age, including retaliation for reporting discrimination or
12 harassment); (7) California Family Rights Act, Cal. Government Code § 12945.1 et seq.
13 (family/medical leave); (8) California Labor Code, including Section 1720 et seq., or any
14 Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion,
15 sex, and national origin discrimination or harassment); (10) Executive Order 11141 (age
16 discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap
17 discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement Income Security
18 Act, 29 U.S.C. § 1000 *et seq.* (employee benefits); (14) the California Civil Code; (15) the
19 California Labor Code; (16) the California Constitution; (17) the National Labor Relations Act;
20 and (18) any other federal, state, or local statute or legislation.

21 61. Class Representatives expressly waive and relinquish all rights and benefits
22 afforded by Section 1542 of the Civil Code of the State of California and does so understanding
23 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
24 of the State of California states:

25 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
26 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
27 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
28 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY. -16-

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE

1
2 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
3 full and complete release and discharge of all parties, Class Representatives, and Class Counsel
4 expressly acknowledge that this Settlement Agreement is intended to include in its effect, without
5 limitation, all claims that Class Representatives knew of, as well as all claims that they do not
6 know or suspect to exist in their favor against the Released Parties, or any of them, for the time
7 period from the beginning of time to the execution of this Settlement Agreement, and that this
8 Settlement Agreement contemplates the extinguishment of any such Class Representatives'
9 claims.

10 **F. Interim Stay of Proceedings**

11 62. Pending completion of all of the prerequisites necessary to effectuate this
12 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action
13 except those steps necessary to effectuate the Settlement.

14 **G. Notice Process**

15 63. Appointment of Settlement Administrator. The Parties have agreed to the
16 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
17 including mailing the Notice, using standard devices to obtain forwarding addresses,
18 independently reviewing and verifying documentation associated with any claims or opt-out
19 requests, resolving any disputes regarding the calculation or application of the formula for
20 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
21 Final Settlement Class Members, issuing Forms W-2 and 1099, reporting to taxing authorities,
22 due diligence, reporting and remittance obligations, and performing such other tasks as set forth
23 herein or as the Parties mutually agree or that the Court orders.

24 64. Disputes Regarding Settlement Administration. Any and all disputes relating to
25 administration of the Settlement by the Settlement Administrator (except for disputes regarding
26 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
27 over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendant notify
28 the Court that all payments and obligations contemplated by this Settlement Agreement have been
fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE

1 good faith to resolve the dispute without the necessity of Court intervention. The Settlement
2 Administrator shall also be responsible for issuing to Plaintiffs, Final Settlement Class Members,
3 and/or Class Counsel any Forms W-2, Forms 1099, or other Tax Forms as may be required by
4 law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be
5 responsible for setting up all necessary tax accounts and forwarding all payroll taxes and penalties
6 to the appropriate government authorities.

7 65. Class Data. Within fifteen (15) days after entry of the Preliminary Approval Order,
8 Defendant shall provide the Class Data to the Settlement Administrator. The Settlement
9 Administrator will run a check of the Class Members' addresses against those on file with the
10 U.S. Postal Service's National Change of Address List. The Class Data provided to the Settlement
11 Administrator will not be provided to Class Counsel and it will remain confidential, it shall be
12 used solely to administer the Settlement, and it will not be used or disclosed to anyone, except as
13 required by applicable tax authorities, pursuant to Defendant's express written consent, or by
14 order of the Court.

15 66. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
16 Administrator to the Settlement Class Members, by first class mail, in English and Spanish, within
17 seven (7) calendar days following the Settlement Administrator's receipt of the Class Data. The
18 Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding
19 addresses of Settlement Class Members if any envelopes are returned.

20 67. Returned Notices. The Settlement Administrator will take steps to ensure that the
21 Notice is received by all Settlement Class Members, including utilization of the National Change
22 of Address Database maintained by the United States Postal Service to review the accuracy of
23 and, if possible, update a mailing address. If no forwarding address is provided, the Settlement
24 Administrator will promptly attempt to determine the correct address using a skip-trace, or other
25 search using the name, address, and/or Social Security number of the Class Member involved and
26 will then perform a single re-mailing. In the event the procedures in this Paragraph are followed
27 and the intended recipient of a Notice Packet still does not receive the Notice Packet, the Class
28 Member shall be bound by all terms of the Settlement and any Judgment entered by the Court if

the Settlement is approved by the Court. Notices will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the Notice.

68. Presumption Regarding Receipt of Notice. It will be conclusively presumed that if an envelope has not been returned to the Settlement Administrator within thirty (30) days of the mailing that the Settlement Class Member received the Notice.

69. Disputes Regarding Class Data. Settlement Class Members are deemed to participate in the Settlement unless they opt-out. The Notice will inform Settlement Class Members of their estimated Individual Settlement Amount and the number of Workweeks Worked during the Class Period and during the PAGA Period. Settlement Class Members may dispute their Workweeks Worked if they feel they were employed more workweeks in the Class Period in California than Defendant's records show by timely submitting evidence to the Settlement Administrator.. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records. The Settlement Administrator will evaluate the evidence submitted by the Settlement Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree , they agree to submit the dispute to the Settlement Administrator to render a final decision. All disputes will be decided within ten (10) business days of the Notice Response Deadline. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks Worked, object, or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Workweeks Worked for any Settlement Class Member, the Settlement Administrator will then recalculate the Participating Class Members' Individual Settlement Amounts. However, in no event will Defendant be required to increase the Gross Settlement Amount.

1 70. Declaration of Due Diligence. The Settlement Administrator shall provide counsel
2 for the Parties, at least twenty-five (25) calendar days prior to the final approval hearing, a
3 declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

4 71. Settlement Class Members' Rights. Each Settlement Class Member will be fully
5 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
6 Class Claims, and the ability to opt out or request exclusion from the Class Claims provisions of
7 the Settlement. The Notice will inform the Settlement Class Members of the Court-established
8 deadlines for filing objections or requesting exclusion from the Class Claims provisions of the
9 Settlement in accordance with the following guidelines:

10 (a) Requests for Exclusion from Participating Settlement Class. Any
11 Settlement Class Member, other than Plaintiffs, may request to be excluded from the Participating
12 Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator,
13 postmarked on or before the Notice Response Deadline. The Request for Exclusion should state
14 in words to this effect:

15 I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN
16 SAGER V. SUMMIT FOOD LAWSUIT. I UNDERSTAND THAT IF I
17 ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL
18 NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE
19 CLASS CLAIMS IN THIS LAWSUIT.

20 Any Request for Exclusion must include the full name, address, telephone number, last
21 four digits of the social security number or date of birth, and signature of the Settlement Class
22 Member requesting exclusion. The Request for Exclusion must be returned by mail to the
23 Settlement Administrator at the specified address. Any such Request must be made in accordance
24 with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked
25 by the Notice Response Deadline, unless the Parties otherwise agree in writing. The postmark
26 date will be the exclusive means to determine whether a Request for Exclusion has been timely
27 submitted. Any Settlement Class Member who timely requests exclusion in compliance with these
28 requirements: (i) will not have any rights under this Agreement with respect to the Class Claims,
including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to

1 receive any payments under this Agreement with respect to Class Claims; and (iii) will not be
2 bound by this Agreement, or the Judgment, with respect to the Class Claims.

3 (b) Binding Effect on Final Settlement Class Members. Except for those
4 Settlement Class Members who exclude themselves in compliance with the procedures set forth
5 above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members
6 for all purposes under this Agreement; (ii) be bound by the terms and conditions of this
7 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided
8 herein, be deemed to have waived all objections and oppositions to the fairness, reasonableness,
9 and adequacy of the Settlement.

10 (c) Objections to Settlement of Class Claims. Any Settlement Class Member,
11 other than Plaintiffs, may object to the terms of this Agreement with respect to the Class Claims
12 and may appear at the Final Approval Hearing and object whether or not they have filed a written
13 objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement
14 Administrator, in writing, of his/her/their objection, which must be postmarked by the Notice
15 Response Deadline at the address set forth in the Notice. Such objection shall include the full
16 name, address, telephone number, dates of employment with Defendant of the Objecting
17 Settlement Class Member, the case name and number, the basis for the objection, including any
18 legal support and each specific reason in support of the objection, as well as any documentation
19 or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by
20 counsel, the name and address of his/her/their counsel. If any Objecting Settlement Class Member
21 wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting
22 Settlement Class Member's written submission should include a request to be heard, and the Court
23 will determine whether Objecting Settlement Class Members will be permitted to speak at the
24 hearing. The Settlement Administrator shall provide objections, if any, to Class Counsel and
25 Defense Counsel within three (3) business days of receipt, and the Settlement Administrator shall
26 attach the same to its declaration of due diligence it files with the Court prior to the Final Approval
27 Hearing. Any Objecting Settlement Class Member remains eligible to receive monetary
28 compensation from the Settlement. Plaintiffs and Defendant shall not be responsible for any fees,

costs, or expenses incurred by any Class Member and /or his/her/their counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure section 663. Settlement Class Members and Aggrieved Employees may not object to or opt out of the Settlement with respect to the PAGA Claims. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or appeal from the Judgment. To the extent a timely Notice of Objection is withdrawn before final approval, such an objection shall be treated as though the objection had not been made.

(d) Failure to Object. Any Settlement Class Member who desires to object with respect to the Class Claims but fails to submit a timely written objection waives any right to object and will be foreclosed from making any objection to this Settlement. Any Settlement Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure section 473, and extraordinary writs.

(e) Responses to Objections. Counsel for the Parties may file a response to any objections submitted by Objecting Settlement Class Members at least five (5) court days before the date of the Final Approval Hearing.

72. Settlement Class Members will have until the Notice Response Deadline to object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class Counsel or Defense Counsel.

73. Funding of the Settlement Amount. Defendant shall make a one-time deposit into the QSF of the Settlement Amount, as described in Paragraph 48(a) that is necessary to make all

1 payments required under this Settlement, within thirty (30) days after the Effective Date.
2 Separately but on this same date (30 days after Effective Date), Defendant shall pay its share of
3 employer payroll taxes as calculated and directed by the Settlement Administrator and set forth
4 herein.

5 74. Distribution of Funds. No later than seven (7) calendar days after deposit of the
6 Settlement Amount into the QSF, the Settlement Administrator shall mail the payments to the
7 Participating Class Members, the payment for the attorneys' fees and costs to Class Counsel
8 (except as provided herein and/or pursuant to a distribution agreement), any Service Payment to
9 the Class Representatives, the payment to the LWDA for PAGA penalties, and will pay itself the
10 Settlement Administration Costs.

11 75. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
12 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
13 checks. If any Final Settlement Class Member's check is not cashed within that period, the check
14 will be void and a stop-payment will be issued. All unclaimed funds shall be donated to cy pres
15 recipient, Legal Aid at Work, the cy pres recipient approved by the Court. The Settlement
16 Administrator shall provide Class Counsel and Defense Counsel with an accounting of the
17 unclaimed funds sent to the cy pres recipient. The release will be binding upon all Final Settlement
18 Class Members who do not cash their checks within the 180-day period. In the event that any
19 settlement check is returned to the Settlement Administrator within 180 days of mailing, the
20 Settlement Administrator will, within five (5) business days of receipt of the returned settlement
21 check, perform a skip trace to locate the individual. If a new address is located by these means,
22 the Administrator will have ten (10) business days to re-issue the check and will notify Defense
23 Counsel and Class Counsel that a re-issued check has been sent. Neither Defendant, Defense
24 Counsel, Class Counsel, Plaintiffs, nor the Settlement Administrator will have any liability for
25 lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized
26 negotiation of settlement checks. Without limiting the foregoing, in the event a Final Settlement
27 Class Member notifies the Settlement Administrator that they believe that a settlement check has
28 been lost or stolen, the Settlement Administrator shall immediately stop payment on such check.

1 If the check in question has not been negotiated prior to the stop payment order, the Settlement
2 Administrator will issue a replacement check.

3 76. No person shall have any claim against Defendant, Defendant's Counsel,
4 Plaintiffs, Class Counsel, or the Settlement Administrator based on mailings, distributions,
5 payments, or reports made in accordance with or pursuant to this Agreement. This provision does
6 not, however, prevent a Party from seeking enforcement of this Agreement.

7 77. Without prejudice to any other remedies, the Settlement Administrator shall agree
8 to be responsible for any breach of its obligations (whether committed by the Settlement
9 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from
10 and against all liabilities, claims, causes of action, costs and expenses (including legal fees and
11 expenses) arising out of any breach committed by the Settlement Administrator or its agents.

12 **H. Duties of the Parties Prior to the Court's Approval**

13 78. Within thirty (30) days of execution of this Agreement, Plaintiffs will move the
14 Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
15 accomplishing the following:

16 (a) Scheduling the Final Approval Hearing on the issue of whether this
17 Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members
18 and a hearing on fees, costs, and the Service Payment;

19 (b) Approving as to form and content the proposed Notice;

20 (c) Directing the mailing of the Notice by first class mail to the Settlement
21 Class Members;

22 (d) Preliminarily approving this Settlement; and

23 (e) Preliminarily certifying the class for purposes of this Settlement.

24 79. In conjunction with the Preliminary Approval Hearing, Plaintiffs will submit this
25 Settlement Agreement, and will include the proposed Notice Packet, which will include the
26 Notice of Class Action Settlement document and proposed Mailing Envelope.

27 80. In accordance with section 2699(1)(2) of the California Labor Code, Plaintiffs
28 shall provide a copy of this Settlement Agreement to the LWDA on the same day that Plaintiffs

file their motion for Preliminary Approval of this Settlement with the Court.

81. Modifications. In the event the Court refuses, on its first hearing, to approve this Agreement, the Parties shall cooperate in good faith to address any issues raised by the Court. If there are nonmaterial changes that do not affect the terms and non-class payments to Plaintiffs, Class Counsel and Defense Counsel shall have authority to modify this Agreement without additional signatures of the Parties.

I. Duties of the Parties Following Court's Final Approval

82. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representatives, and the payment to the Settlement Administrator for costs of administering the Settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties, permanent barring the Class Representatives from prosecuting any claims of any nature against the Release Parties (as a product of the general release that each of them hereby provides, see Section 58, above) and permanently barring all Aggrieved Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties.

J. Voiding the Agreement

83. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of any Party.

84. If the Settlement is voided or fails for any reason, Plaintiffs and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay

the Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

85. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant (50 percent) and Plaintiffs (collectively 50 percent), unless otherwise specified in this Agreement.

K. Other Terms

86. Full and Complete Defense. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released Claim. The Parties agree to the admissibility of this Agreement in any subsequent action involving the prosecution of any Released Claim.

87. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

88. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

89. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement and the final entry of judgment.

1 90. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
2 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
3 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
4 cause of action, or rights released and discharged by this Settlement Agreement.

5 91. No Admission. Defendant denies any and all liability to Plaintiffs and/or any
6 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
7 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
8 compromise to avoid further substantial expense and the inconvenience and distraction of
9 protracted litigation. Defendant has considered the uncertainty and risks inherent in litigation, and
10 without conceding any infirmity in the defenses that they have asserted or could assert against
11 Plaintiffs, have determined that it is desirable and beneficial that Plaintiffs' claims be settled in
12 the manner and upon the terms and conditions set forth in this Agreement.

13 92. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
14 Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be
15 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
16 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
17 Settlement Agreement with the intention of avoiding further disputes and litigation with the
18 attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and
19 it, along with all related documents such as the notices, and motions for preliminary and final
20 approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of
21 Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to
22 approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for
23 class certification as part of this Settlement Agreement is for settlement purposes only and if, for
24 any reason the settlement is not approved, the stipulation will be of no force or effect.

25 93. Confidentiality: The Parties, Class Counsel and Defense Counsel agree to keep the
26 Settlement confidential through the Preliminary Approval Date. Thereafter, the Parties, Class
27 Counsel and Defense Counsel agree to make no comments to the media or otherwise publicize
28 the terms of the Settlement.

1 94. Invalidity of Any Provision. Before declaring any provision of this Settlement
2 Agreement invalid, the Parties request the Court to first attempt to construe the provision as valid
3 to the fullest extent possible consistent with applicable precedents so as to define all provisions
4 of this Settlement Agreement valid and enforceable. Notices. Unless otherwise specifically
5 provided herein, all notices, demands, or other communications given hereunder shall be in
6 writing and shall be deemed to have been duly given as of the third business day after mailing by
7 United States registered or certified mail, return receipt requested, addressed:

8 To the Settlement Class Members and Aggrieved Employees:

9 Justin Marquez
10 justin@wilshirelawfirm.com
11 Benjamin Haber
12 benjamin@wilshirelawfirm.com
13 Arrash Fattahi
14 afattahi@wilshirelawfirm.com
15 3055 Wilshire Blvd., 12th Floor
16 Los Angeles, California 90010

17 Mehrdad Bokhour
18 mehrdad@bokhourlaw.com
19 1901 Avenue of the Stars, Suite 450
20 Los Angeles, California 90067
21 Tel: (310) 975-1493; Fax: (310) 675-0861

22 Joshua Falakassa
23 josh@falakassalaw.com
24 1901 Avenue of the Stars, Suite 450
25 Los Angeles, California 90067
26 Tel: (818) 456-6168; Fax: (818) 505-0868

27 To Defendant:

28 Tracy Costantino
29 Tcostantino@littler.com
30 633 West Fifth Street, 63rd Floor
31 Los Angeles California, 90071
32 Tel: (213) 443-4244; Fax: (213) 652-0560

33 95. Construction. The Parties hereto agree that the terms and conditions of this
34 Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the
35 Parties and that this Settlement Agreement shall not be construed in favor of or against any Party
36 by reason of the extent to which any Party or their counsel participated in the drafting of this
37 Settlement Agreement. Plaintiffs and Defendant expressly waive the common-law and statutory
38 rule of construction that ambiguities should be construed against the drafter of an agreement and
39 further agree, covenant, and represent that the language in all parts of this Agreement shall be in

40 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE**

all cases construed as a whole, according to its fair meaning.

96. Captions and Interpretations. 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.

97. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto (except as provided herein, permitting Class Counsel and Defense Counsel to approve any such changes in writing), 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 all of the Parties hereto.

98. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party or Parties and allow an opportunity to cure the alleged deficiencies, and Plaintiffs and Defendant agree to seek the help of the mediator identified in this Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding instituted by any person or entity other than Plaintiffs or Defendant.

99. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations of this Agreement.

100. Enforceability. Pursuant to California Evidence Code section 1123(a) and (b), this Agreement is intended by the Parties to be, and shall be, enforceable, binding and admissible in a court of law.

101. Choice of Law. This Settlement Agreement shall be governed by and construed, enforced, and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

102. Integration Clause. 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.

103. Binding On Assigns. 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.

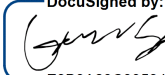
104. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

105. Counterparts. 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 fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES.

2/21/2024
Dated: February __, 2024

CLASS REPRESENTATIVE:

DocuSigned by:

F3B3A29C9953452
GABRIEL SAGER

2/15/2024

Dated: February __, 2024

CLASS REPRESENTATIVE:

DocuSigned by:
Elizabeth Adams
4D268339F0AE48B

ELIZABETH ADAMS

Dated: February __, 2024

DEFENDANT:

SUMMIT FOODS SERVICE, LLC

By
Its

1 Dated: February __, 2024

CLASS REPRESENTATIVE:

2
3
4 ELIZABETH ADAMS

5 Dated: February ⁸ __, 2024

DEFENDANT:

6
7 **SUMMIT FOODS SERVICE, LLC**

8 DocuSigned by:
9 *Angela Anderson*
By 7DD919AD9159492...
10 Its Deputy General Counsel

1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL**

3 2/8/2024
4 Dated: February ___, 2024

BOKHOUR LAW GROUP, P.C.

5 DocuSigned by:
6 *Mehrdad Bokhour*
7 D8D3643F271940F...
8 Mehرداد Bokhour
9 Attorneys for Plaintiffs

10 2/8/2024
11 Dated: February ___, 2024

FALAKASSA LAW, PC

12 DocuSigned by:
13 *Joshua Falakassa*
14 15A628B2C5A149C...
15 Joshua Falakassa
16 Attorneys for Plaintiffs

17 Dated: February 21, 2024

WILSHIRE LAW FIRM, PLC

18 *Justin Marquez*
19 Justin Marquez
20 Attorneys for Plaintiffs

21 Dated: February ___, 2024

DEFENDANT'S COUNSEL:

LITTLER MENDELSON, P.C.

22 Tracy Costantino
23 Attorneys for Defendant,
24 Summit Food Service, LLC
25
26
27
28

APPROVED AS TO FORM:

CLASS COUNSEL

Dated: February ___, 2024

BOKHOUR LAW GROUP, P.C.

Mehrdad Bokhour
Attorneys for Plaintiffs

Dated: February ___, 2024

FALAKASSA LAW, PC

Joshua Falakassa
Attorneys for Plaintiffs

Dated: February ___, 2024

WILSHIRE LAW FIRM, PLC

Justin Marquez
Attorneys for Plaintiffs

Dated: February 22, 2024

DEFENDANT’S COUNSEL:

LITTLER MENDELSON, P.C.

Tracy Costantino
Attorneys for Defendant,
Summit Food Service, LLC