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13 *Attorneys for Plaintiff Isabel Sanchez*
14 *the Putative Class, and all Aggrieved Employees*

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF IMPERIAL**

17 ISABEL SANCHEZ, individually, on
18 behalf of herself, all those similarly
19 situated, and all Aggrieved Employees,

20 Plaintiff,

21 vs.

22 AGRO PACK LLC, a California limited
23 liability company; and
24 DOES 1 through 100, inclusive,

25 Defendants.

Case No.: ECU002547

[Assigned to Hon. L. Brooks Anderholt]

**DECLARATION OF JOHN A. VAN HOOK
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

Concurrently filed with:

(1) **MOTION FOR PRELIMINARY
APPROVAL AND MEMORANDUM
OF POINTS AND AUTHORITIES;**

(2) **PROPOSED ORDER**

Date: September 27, 2023

Time: 8:30 a.m.

Dept.: 9

Judge: Hon. L. Brooks Anderholt

1 I, John A. Van Hook, declare as follows:

2 1. I am a member of the Bar of the State of California and am admitted to practice
3 before all courts of the State of California. I am the owner of the Van Hook Law Firm, co-lead
4 counsel for Plaintiff Isabel Sanchez (“Plaintiff”), the putative class members and allegedly
5 aggrieved employees. I make this declaration in support of Plaintiff’s Motion for Preliminary
6 Approval of Class and Representative Action Settlement. I have personal knowledge of the
7 facts set forth in this declaration and, if called upon to do so, could and would testify
8 competently thereto, except where I make a statement on information and belief, in which
9 case I am informed and believe the statement to be true.

10 2. Attached hereto as **Exhibit A** is a true and correct copy of the Joint Stipulation
11 of Class and Representative Acton Settlement (the “Settlement Stipulation”). The Settlement
12 Stipulation has been reviewed and signed by all parties and their counsel. The Settlement
13 Notice is attached hereto as **Exhibit A-1**.

14 3. On September 13, 2022, Plaintiff filed her putative class action complaint in
15 the Imperial County Superior Court, asserting various wage and hour claims on a class-wide
16 basis. Plaintiff’s Complaint defined putative Class members as: “All current and former non-
17 exempt employees, whether paid on an hourly and/or piece rate basis, employed by
18 Defendants within the State of California at any time during the period from four (4) years
19 prior to the filing of this action, plus any additional time during which the statutes of
20 limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the
21 California Rules of Court, the ‘Emergency Rules Related to COVID-19, through final
22 judgment.” (*See generally* Complaint.)

23 4. On October 20, 2022, Plaintiff submitted a notice to the Labor and Workforce
24 Development Agency (“LWDA”) giving notice of her allegations pursuant to the California
25 Labor Code Private Attorneys General Act of 2004, Labor Code §2698, et seq. (“PAGA”).

26 5. On December 20, 2022, Plaintiff filed a First Amended Complaint, adding a
27 cause of action for civil penalties under PAGA. (*See generally* First Amended Complaint.)
28

1 6. Plaintiff's primary theories of class liability were: (1) that Defendant did not
2 accurately record the time worked by Plaintiff and the putative class members/aggrieved
3 employees, resulting in unpaid wages (including overtime wages), and (2) that Defendant did
4 not provide meal periods in compliance with California law. Based on these primary theories
5 of liability, Plaintiff sought unpaid wages, statutory penalties (including penalties for itemized
6 wage statement violations and "waiting time" penalties), and civil penalties pursuant to
7 PAGA.

8 7. Defendant has vigorously contested the merits of these claims and allegations.
9 Further, Defendant has argued that, absent a settlement, Plaintiff would be unable to obtain
10 class certification on some or all of her claims, and that Plaintiff's representative PAGA
11 claims would be unmanageable. Defendant argued that any such violations were
12 individualized, and contrary to Defendant's stated policies and procedures. While Plaintiff, as
13 well as my co-counsel and I, dispute these arguments, they nonetheless highlight the
14 uncertainty in these claims and the litigation if this case had not settled.

15 8. After the filing of Plaintiff's First Amended Complaint, the Parties began to
16 explore the possibility of early resolution and agreed to participate in private mediation. Prior
17 to mediation, the Parties engaged in substantial informal discovery and exchanges of
18 information, including Defendant providing to Plaintiff data regarding the putative class (*e.g.*,
19 the number of putative class members, the number of putative aggrieved employees, the
20 number of workweeks worked during the respective claim periods, and the average hourly
21 rate, etc. Defendant also provided a class data spreadsheet containing over 475,000 entries, a
22 significant sampling of documentation including wage statements and time records for the
23 putative class and putative aggrieved employees, and company policies and procedures
24 applicable to the claim periods.

25 9. Defendant's records provided the means to readily identify the individuals that
26 worked for them and that provided labor to specific growers. To aid the settlement
27 negotiations and the manageability of a potential settlement, the Parties agreed to limit the
28

1 scope of the settlement negotiations to those putative class members that worked for one or
2 more of the Growers for which Plaintiff also worked. Defendant ascertained those individuals,
3 identifying approximately 6,869 current and former employees meeting the Settlement Class
4 definition, representing 52,479 total workweeks, an average of 7.6 workweeks per Settlement
5 Class Member.

6 10. My co-counsel and I also had multiple conferences with Defendant's counsel
7 about the information provided by Defendant. We also conducted substantial investigation of
8 our own, meeting extensively with Plaintiff, and reviewing information supplied.

9 11. On July 3, 2023, the Parties participated in a full-day private mediation with
10 experienced employment and class action mediator, Hon. Patrick O'Hara (Ret.) Judge
11 O'Hara's curriculum vitae is attached as **Exhibit B**.

12 12. Despite the Parties' and mediator's best efforts, after a full day of intensive,
13 arms-length negotiations, the matter did not resolve on the day of the mediation. Several days
14 later, after follow-up discussions between the mediator and the Parties' counsel, the mediator
15 made a mediator's proposal, which both Parties accepted. Subsequently, the Parties negotiated
16 a Memorandum of Understanding ("MOU"). On August 31, 2023, the Parties finalized the
17 terms of the Settlement Stipulation.

18 13. At the same time, the Parties resolved Plaintiff's individual retaliation and
19 wrongful termination claims through a confidential settlement agreement.

20 14. The Settlement Stipulation provides that Agro Pack will pay a total of
21 \$462,500.00 (the "Gross Settlement Fund"), as a non-reversionary settlement fund to settle the
22 claims in this action. Based on the estimated 52,479 workweeks, the settlement would pay an
23 estimated gross settlement of \$8.81 per workweek. In addition to the payment of the Gross
24 Settlement Fund, Defendant shall also separately pay any employer-side payroll taxes that
25 may be due because of the settlement payments. From the Gross Settlement Fund of
26 \$462,500, the following amounts will be paid, subject to this Court's approval:

- 27 • Class Counsel's attorney's fees of \$154,000;

- Class Counsel’s documented, out-of-pocket litigation expenses, estimated to be no more than \$4,000;
- Settlement administration expenses, estimated at \$40,000;
- Class representative enhancement award to Plaintiff of \$2,500;
- and PAGA penalties of \$25,000, of which \$18,750 shall be paid to the LWDA (75% of the \$25,000 PAGA settlement), and the remaining distributed pro rata among the Aggrieved Employees. (*See* Ex. A, ¶¶ 16, 47(a)-(e).)

15. The Gross Settlement Amount, minus these payments identified above, is the Net Settlement Fund. Accordingly, assuming these amounts are approved by the Court, the Net Settlement Fund (including the PAGA penalties paid to Aggrieved Employees) would be \$243,250.00. The Net Settlement Fund would be distributed to Class Members based on their number of workweeks during the Class Settlement Period (September 13, 2018, through to the date of Preliminary Approval). (*See* Ex. A, ¶ 47(a)(i).)

16. To avoid dilution of Settlement Class Members’ claims, in the event that the actual number of workweeks exceeds the 15% workweek buffer, Defendant will have the option to either increase the Gross Settlement Fund by a pro-rata amount, or modify the Class Period’s end date to a date prior to the date of Preliminary Approval so that the number of Workweeks does not exceed the 15% buffer. (*See* Ex. A, ¶ 49.)

17. Class Members will be given notice of the settlement and will have the opportunity to object to or opt out of it. The Notice will also explain how to opt out of the settlement and how to object to the settlement. Class Members who do nothing will be included in the settlement and shall receive payment without the need for submitting a claim form or any documentation. The Class Notice shall notify the Settlement Class Members of their number of workweeks during the Class Settlement Period according to Defendant’s records and their estimated share of the settlement. The Notice will also inform Settlement Class Members how they can dispute their workweeks if they believe the information in Defendant’s records is incorrect. (*See* Ex. A-1 [Class Notice]; Ex. A, ¶ 46.)

1 18. Settlement checks to Settlement Class Members shall be valid for 180 days
2 from the date of issuance. In the event of voided checks, such amounts shall be remitted to the
3 California State Controller's Office's Unclaimed Property Division. (*See* Ex. A, ¶ 47(a).)

4 19. The Parties have agreed to have Phoenix Settlement Administrators ("PSA"), a
5 nationally recognized settlement administrator, be selected, subject to this Court's approval,
6 as Settlement Administrator. I have worked with PSA on numerous class action and/or PAGA
7 settlement and have found PSA to be highly competent and responsive. In my opinion, PSA's
8 bid for the administration services in this matter was reasonable, particularly given the
9 transient nature of the workforce and consequently large number of unique Settlement Class
10 Members.

11 20. The Settlement Class Members that do not exclude themselves from the
12 settlement will, upon final approval and entry of judgment, release their covered claims during
13 the Settlement Period, September 13, 2018, through to the date of Preliminary Approval. (*See*
14 Ex. A, ¶ 41). If any Settlement Class Members opt-out, their share would be redistributed pro-
15 rata to the participating Settlement Class Members. As a result, the average payment per
16 Settlement Class Member would increase. *Id.*

17 21. Throughout this litigation, Defendant has asserted substantive and procedural
18 defenses to Plaintiff's class action and PAGA claims. Defendant contends, inter alia: (1) that
19 it recorded and paid Plaintiff and the putative class members and aggrieved employees for all
20 time worked, (2) that its workers had the opportunity to report and correct any potential errors
21 in their time records and pay, (3) that it provided all required meal periods and authorized and
22 permitted all required rest periods, (4) that it paid separating employees all wages owed at
23 termination and that any alleged errors were not willful, and (5) that it supplied accurate
24 itemized wage statements and that any errors were inadvertent and/or did not result in
25 "injuries" to workers. As for class certification, Defendant argues that, absent a class
26 settlement, class certification would be inappropriate due to individualized issues and that the
27 PAGA claims would not be manageable. Although Plaintiff and her counsel vigorously
28

1 dispute these defenses, they nevertheless highlight the many uncertainties and challenges if
2 this litigation were to continue.

3 22. Additional uncertainties existed with respect to Plaintiff's PAGA claims,
4 which are derivative of the underlying Labor Code claims described above. In addition to
5 Defendant's defense on the underlying claims, and in the event Plaintiff did prevail on her
6 PAGA claims, Defendant would argue for the Court's discretion to reduce PAGA penalties
7 under Labor Code § 2699 (e)(2), created substantial uncertainties as to the amounts of PAGA
8 penalties that Plaintiff would realistically recover. As the court could find PAGA penalties
9 duplicative of the underlying damages and penalties, and the court could find that substantial
10 penalties against Defendant, particularly given its financial condition, would be "unjust,
11 arbitrary and oppressive, or confiscatory."

12 23. In light of these issues, the Parties attributed a settlement value of \$25,000 to
13 the PAGA claims, out of the total \$462,500 gross settlement. In my experience settling and
14 obtaining court approval of class and PAGA settlements, this is an appropriate allocation and
15 would provide the State of California with significant relief in addition to the relief provided
16 to the class members.

17 24. The following is a brief description of my legal background. I have been
18 practicing law in the State of California for more than 20 years and I have practiced labor and
19 employment law almost exclusively for the past 17 years. I graduated from Harvard Law
20 School in 1999 and was admitted to the California State Bar in December 1999. I began to
21 practice employment law almost exclusively in May 2003, upon joining Seyfarth Shaw LLP
22 as an Associate in its Los Angeles Labor and Employment Department. I worked at Seyfarth
23 Shaw 2006, and returned to Seyfarth in 2008 as Senior Counsel, again handling wage and
24 hour class actions, FLSA collective actions, and representative PAGA actions, among other
25 employment litigation. I also provided clients with employment advice and counsel, including
26 on wage and hour issues. I estimate that I handled more than 40 class, collective, and PAGA
27 representative cases while at Seyfarth. Among the class actions that I handled was *Gattuso v.*
28

1 *Harte-Hanks Shoppers, Inc.*, 42 Cal. 4th 554 (2007), the leading California Supreme Court
2 decision on expense reimbursement requirements under Labor Code section 2802. From 2006
3 through 2008, I was in-house counsel for Prospect Medical Holdings, Inc., based in Los
4 Angeles. As in-house counsel for Prospect Medical, my responsibilities included managing
5 and directly handling employment litigation, providing advice on employment policies,
6 procedures and personnel decisions, handling union matters, among other duties.

7 25. From 2012 until June 2019, I was a member of the Labor and Employment
8 Department of McGuireWoods LLP. My practice at McGuireWoods focused on handling
9 wage and hour class actions, FLSA collective actions, and representative PAGA actions, in
10 addition to providing clients with employment law advice.

11 26. In June 2019, I left McGuireWoods and started my own practice focusing on
12 representing workers in employment litigation, including wage and hour, class and PAGA
13 representative actions. Since then, I have litigated ed and settled numerous class and PAGA
14 representative actions on behalf of workers in California state and federal courts, including
15 multiple cases on behalf of farm workers such as Plaintiff and the putative class members.

16 27. In reaching the settlement, my co-counsel and I assessed and advised Plaintiff
17 on all of the risks of continued pursuit of this litigation and a number of related factors,
18 including the risk of failing to certify one or more of the claims, the risk of subsequent
19 decertification of claims. We also evaluated the risks that Defendant would defeat some or all
20 of Plaintiff's claims on the merits. We also considered information provided regarding
21 Defendant's financial condition, and the likelihood that Defendant would be unable to pay a
22 substantial class-wide judgment, even if Plaintiff were to prevail on all claims at trial.

23 28. Based on my knowledge of the facts of this case, my evaluation of the
24 strengths and challenges of Plaintiff's claims and Defendant's defenses, I believe the
25 Settlement Stipulation represents a fair, reasonable, and adequate settlement. I, along with
26 Plaintiff and my co-counsel Adrian Byrne, fully support this settlement.
27
28

1 29. Throughout the course of this litigation, named Plaintiff Isabel Sanchez has
2 shown her ability and willingness to prosecute this action vigorously on behalf of her former
3 co-workers. Ms. Sanchez spent many hours participating in meetings, telephone conferences,
4 and other communications with counsel, gathering documents and information, actively
5 participating in the full-day mediation, and continuing to participate through the present.
6 Without Ms. Sanchez's involvement, this case would not have been filed, and without her
7 ongoing involvement and support, I do not believe that we would have reached the settlement
8 on the terms that we did. She appeared to understand and honor her role as class
9 representative. I am aware of no conflicts between Ms. Sanchez and other class members that
10 would render her inadequate class representative in any way.

11 30. Pursuant to Labor Code § 2699 (1) (2), a copy of the proposed Settlement
12 Stipulation will be submitted to the LWDA at the same time that the moving papers are
13 submitted to the Court. I will promptly notify the Court of any comment or objection by the
14 LWDA as to the settlement.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed on September 1, 2023, at Sherman Oaks, California.

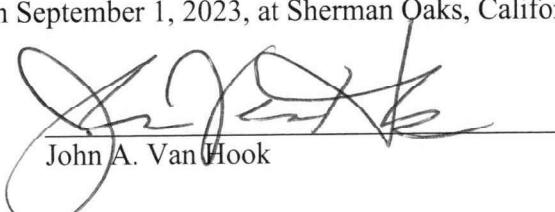
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20 John A. Van Hook
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Exhibit A

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23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **FOR THE COUNTY OF IMPERIAL**

25 ISABEL SANCHEZ, individually, on behalf
26 of herself, all those similarly situated, and all
27 Aggrieved Employees,

28 Plaintiff,

vs.

AGRO PACK LLC, a California limited
liability company; and
DOES 1 through 100, inclusive,

Defendants.

Case No. ECU002547

**JOINT STIPULATION FOR CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Department: 9

Judge: Hon. L. Brooks Anderholt

Complaint filed: September 13, 2022

STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

Plaintiff Isabel Sanchez, on behalf of herself and on behalf of the putative class members and aggrieved employees defined herein, and Defendant Agro Pack, LLC, agree to settle this class and representative action subject to the terms and conditions below.

DEFINITIONS

1. “Agreement” means this Joint Stipulation for Class and Representative Action Settlement.

2. “Action” means the lawsuit entitled *Isabel Sanchez v. Agro Pack, LLC*, filed on September 13, 2022, in the Imperial County Superior Court, Case No. ECU002547.

3. “Class Counsel” means John A. Van Hook of Van Hook Law Firm and Adrian C. Byrne of The Byrne Law Group.

4. “Class Counsel’s Attorney’s Fees” means the amount awarded by the Court in attorneys’ fees for Class Counsel’s litigation and resolution of this Action, paid from the Gross Settlement Fund.

5. “Class Counsel’s Litigation Costs” means the amount awarded by the Court as reimbursement of Class Counsel’s out-of-pocket costs incurred in litigating and resolving the Action.

6. “Class Database” means information regarding Settlement Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It will be formatted as a Microsoft Excel spreadsheet and will include: each Settlement Class Member’s employee ID number and/or other unique identifier; full name; last known home address; Social Security Number or Tax Identification Number; start date of employment; end date of employment (if applicable); number of weeks worked during the Class Period; and number of pay periods worked during the PAGA Period.

7. “Class Notice” means the Notice of Class Action Settlement (substantially in the form attached as **Exhibit 1**).

1 8. “Class Period” means the period from September 13, 2018, through the date of
2 Preliminary Approval. The “Class Period” is subject to modification as set forth in Paragraph 49,
3 below.

4 9. “Class Representative Enhancement” means the amount that the Court authorizes
5 to be paid to Plaintiff, in addition to her Individual Settlement Payment, in recognition of her
6 efforts in assisting with the prosecution and resolution of the Action.

7 10. “Compensable Workweeks” means the number of workweeks during which each
8 Settlement Class Member worked for Defendant during the Class Period. Defendant shall
9 provide the Settlement Administrator with the number of each Settlement Class Member’s
10 Compensable Workweeks. In the event of partial workweeks, Defendant shall round up to the
11 nearest whole number in calculating Compensable Workweeks.

12 11. “Court” means the Imperial County Superior Court.

13 12. “Defendant” means Agro Pack, LLC.

14 13. “Defense Counsel” means Littler Mendelson, P.C.

15 14. “Effective Date” of this Settlement shall be the date that the Court has entered
16 judgment and that judgment becomes final. For purposes of this Agreement, the Court’s
17 Judgment “becomes final” as follows: (a) if a Settlement Class Member or the LWDA timely
18 objects to the terms of the Settlement, then the Court’s judgment becomes final upon the latter
19 of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal
20 from, or other challenge to, the Court’s Judgment (this time period shall not be less than 60
21 calendar days after the Court’s Judgment is entered); (ii) the date affirmance of an appeal of the
22 Judgment becomes final under the Federal Rules; or (iii) the date of final dismissal of any appeal
23 from the Judgment or the final dismissal of any proceeding on review of any court of appeal
24 decision relating to the Judgment; or (b) if no Settlement Class Member or the LWDA makes a
25 timely objection to the Settlement, the Judgment becomes final on the day that it is entered by
26 the Court. Payment of the Gross Settlement Amount shall be made within 14 days of the
27 Effective Date.
28

1 15. “Growers” means collectively (1) Five Crowns, Inc., (2) E. Schaffner Packing
2 Co., (3) Bro-Quali Harvest, Inc., (4) Sunterra Produce Traders, Inc., and (5) Betteravia Farms,
3 LLC.

4 16. “Gross Settlement Fund” means a gross, non-reversionary payment amount of
5 \$462,500.00, inclusive of the Class Counsel Award, the Class Representative Enhancement, the
6 PAGA Payment, Settlement Administration Costs, and Individual Settlement Payments. In no
7 event will Defendant be liable for more than \$462,500.00 as a result of this Settlement, with the
8 exception of Defendant’s employer payroll taxes, and except as described in Paragraph 49.

9 17. “Individual Settlement Payment” means the amount payable from the Net
10 Settlement Fund to each Settlement Class Member.

11 18. “LWDA” means the California Labor and Workforce Development Agency.

12 19. “Net Settlement Fund” means the Gross Settlement Fund, less Class Counsel’s
13 Attorney’s Fees and Litigation Costs, Class Representative Enhancement, PAGA Payment, and
14 Settlement Administration Costs.

15 20. “PAGA” means the California Labor Code Private Attorneys General Act of 2004,
16 Labor Code section 2696, et seq.

17 21. “PAGA Payment” means payment to the California Labor and Workforce
18 Development Agency under the Private Attorneys General Act of 2004.

19 22. “Aggrieved Employees” means those Settlement Class Members that worked for
20 Defendant as non-exempt employees during the PAGA period.

21 23. “PAGA Period” means the period from October 20, 2021, through the date of
22 Preliminary Approval. The “PAGA Period” is subject to modification as set forth in Paragraph
23 49, below.

24 24. “Participating Settlement Class Members” means all Settlement Class Members
25 except for those individuals that have timely requested to opt out of the Settlement.

26 25. “Parties” means Plaintiff and Defendant, collectively, and “Party” will mean
27 either Plaintiff or Defendant, individually.
28

1 26. “Payment Ratio” means the respective Compensable Workweeks for each
2 Settlement Class Member divided by the total Compensable Workweeks for all Settlement Class
3 Members.

4 27. “Plaintiff” means Isabel Sanchez.

5 28. “Preliminary Approval” means the date on which the court grants preliminary
6 approval of the Settlement.

7 29. “Released Claims” means all claims that have been alleged or could have been
8 alleged in the First Amended Complaint against Defendant, the Growers, and the Released
9 Parties, including all of the following claims for relief: (1) failure to pay minimum wages; (2)
10 failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to provide rest
11 periods; (5) failure to reimburse for business expenses incurred; (6) failure to timely pay all
12 wages owed at termination; (7) failure to provide accurate itemized wage statements; (8) unfair
13 compensation; (9) any other claims or causes of action under the wage and hour laws pleaded in
14 the First Amended Complaint or that reasonably could have been pleaded based on the facts
15 alleged in the First Amended Complaint; and (10) for the Aggrieved Employees, all claims under
16 PAGA that could have been premised on the facts and legal theories raised in the First Amended
17 Complaint or Plaintiff’s October 20, 2022 letter to the LWDA. The period of the Released
18 Claims will extend from September 13, 2018, through the date of Preliminary Approval, or as
19 may be modified as set forth in Paragraph 49, below.
20

21 30. “Released Parties” means Defendant, the Growers, and its parent companies,
22 subsidiaries, affiliates, divisions, officers, directors, managers, members, heirs, employees,
23 agents, representatives, attorneys, insurers, partners, investors, shareholders, predecessors,
24 successors, and/or assigns.

25 31. “Request for Exclusion” means a written request to be excluded from the
26 Settlement, which must be made in writing submitted to the Settlement Administrator by mail,
27 postmarked on or before the Response Deadline, and which must contain the case name (*Isabel*
28 *Sanchez v. Agro Pack, LLC*), as well as the Settlement Class Member’s full name, address,
telephone number, last four (4) digits of his or her Social Security number or Tax Identification

1 number, and signature, and a clear statement indicating that he/she seeks to exclude him/herself
2 from the Settlement.

3 32. "Response Deadline" means the date 30 calendar days after the Settlement
4 Administrator mails the Class Notice to Settlement Class Members and the last date on which
5 Settlement Class Members may submit a Request for Exclusion and/or objection to the
6 Settlement.

7 33. "Settlement" means the resolution of the Action pursuant to the terms of this
8 Agreement.

9 34. "Settlement Administration Costs" means the amount to be paid to the Settlement
10 Administrator from the Gross Settlement Fund for administration of this Settlement.

11 35. "Settlement Administrator" means Phoenix Settlement Administrators.

12 36. "Settlement Class Members" means all individuals who worked for Defendant in
13 the State of California as hourly employees at any time during the Class Period, and who worked
14 at one or more of the following five growers: (1) Five Crowns, Inc., (2) E. Schaffner Packing
15 Co., (3) Bro-Quali Harvest, Inc., (4) Sunterra Produce Traders, Inc., and (5) Betteravia Farms,
16 LLC (collectively, the "Growers").

18 **RECITALS**

19 37. Procedural History. On September 13, 2022, Plaintiff filed a putative class action
20 Complaint, seeking damages, penalties and other relief for alleged violations under the Labor
21 Code and other wage and hour laws, including the failure to pay minimum wages and overtime
22 wages, failure to provide meal periods, failure to pay all wages due on separation, failure to
23 provide accurate itemized wage statements, failure to reimburse for reasonable and necessary
24 business expenses incurred, and unfair competition. On October 20, 2022, Plaintiff submitted a
25 notice to the LWDA alleging facts and legal theories of PAGA violations. On December 20,
26 2022, Plaintiff filed a First Amended Complaint, adding a cause of action for civil penalties
27 under PAGA. On July 3, 2023, the Parties participated in a private mediation with experienced
28 employment and class action mediator Hon. Patrick O'Hara (Ret.). Prior to mediation, the Parties
engaged in informal discovery, including Defendant providing to Plaintiff information regarding

1 the putative class, samples of time records and wage statements, company policies and
2 procedures affecting putative class members and claims alleged. Despite making significant
3 progress, the Parties did not reach a settlement at the mediation. The mediator continued to
4 facilitate post-mediation negotiations and made a mediator's proposal to resolve this Action as
5 well as Plaintiff's individual claims. Both sides accepted the mediator's proposal. The Parties
6 subsequently negotiated a Memorandum of Understanding as to the Settlement. The Parties
7 finalized and fully executed the Memorandum of Understanding on or about July 28, 2023.

8 38. Benefits of Settlement to Class Members. Plaintiff and Class Counsel recognize
9 the expense and length of continued proceedings necessary to litigate their disputes through trial
10 and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk of
11 the outcome of further litigation, and the difficulties and delays inherent in such litigation.
12 Plaintiff and Class Counsel are also aware of the burdens of proof necessary to certify a class
13 action and to establish liability for the claims asserted in the Action, both generally and in
14 response to Defendant's defenses thereto, and the challenges in establishing damages for the
15 Settlement Class Members. Plaintiff and Class Counsel have also taken into account the
16 extensive settlement negotiations conducted. Based on the foregoing, Plaintiff and Class Counsel
17 have determined that the Settlement set forth in this Agreement is a fair, adequate, and
18 reasonable settlement, and is in the best interests of the Settlement Class Members.

19 39. Defendant's Reasons for Settlement. Defendant has concluded that any further
20 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts
21 of time and resources of Defendant have been and, unless this Settlement is approved, will
22 continue to be devoted to the defense of the claims asserted by Plaintiff and Settlement Class
23 Members. Defendant has also taken into account the risks of further litigation in reaching its
24 decision to enter into this Settlement. Despite continuing to contend that it is not liable for any of
25 the claims set forth by Plaintiff, Defendant has, nonetheless, agreed to settle in the manner and
26 upon the terms set forth in this Agreement to put to rest the claims as set forth in the Action.
27 Defendant has claimed and continues to claim that the Released Claims have no merit and do not
28 give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in

1 this Agreement and no documents referred to herein and no action taken to carry out this
2 Agreement may be construed or used as an admission by or against Defendant as to the merits or
3 lack thereof of the claims asserted. The monies being paid as part of the settlement are genuinely
4 disputed and the Parties agree that the provisions of Labor Code section 206.5 are not applicable
5 to this Settlement.

6 **TERMS OF AGREEMENT**

7 40. Class Certification. The Parties stipulate and agree to the certification of this
8 Action as a class action for purposes of this Settlement only, with the certified class consisting of
9 all Settlement Class Members. Class Counsel shall be appointed as counsel for the class and
10 Plaintiff shall be appointed as the class representative. In the event the Settlement does not
11 become final and effective, class certification will immediately be null and void and the
12 Settlement Class immediately decertified (subject to further proceedings on motion(s) of any
13 Party to certify or deny certification thereafter). The Parties' willingness to stipulate to class
14 certification as part of the Settlement will not be admissible in, or considered in connection with,
15 the issue of whether a class should be certified in a non-settlement context in this Action or in
16 any context in any other lawsuit.

17 41. Release Provided By All Participating Settlement Class Members. As of the
18 Effective Date, in exchange for the Gross Settlement Fund, Plaintiff and the Participating
19 Settlement Class Members release the Released Parties from the Released Claims for the Class
20 Period. Plaintiff and the Settlement Class Members may hereafter discover facts or legal
21 arguments in addition to or different from those they now know or currently believe to be true
22 with respect to the claims and causes of action in this case which are the subject matter of the
23 Released Claims. Regardless, the discovery of new facts or legal arguments will in no way limit
24 the scope or definition of the Released Claims and by virtue of this Agreement, the Participating
25 Settlement Class Members will be deemed to have, and by operation of the final judgment
26 approved by the Court, will have fully, finally, and forever settled and released all of the
27 Released Claims as defined above.

28 42. Release Provided By Aggrieved Employees and LWDA. As of the Effective Date,

1 in exchange for the Gross Settlement Fund, Plaintiff, the Aggrieved Employees and the LWDA,
2 on behalf of the State of California, release the Released Parties from the PAGA Claims for the
3 PAGA Period. Plaintiff, the Aggrieved Employees, and/or the LWDA may hereafter discover
4 facts or legal arguments in addition to or different from those they now know or currently believe
5 to be true with respect to the PAGA Claims and causes of action in this case which are the
6 subject matter of the PAGA Claims. Regardless, the discovery of new facts or legal arguments
7 will in no way limit the scope or definition of the PAGA Claims and by virtue of this Agreement,
8 the Aggrieved Employees and LWDA will be deemed to have, and by operation of the final
9 judgment approved by the Court, will have fully, finally, and forever settled and released all of
10 the Released Claims as defined above. The Aggrieved Employees shall not have the ability to
11 exclude themselves from the PAGA Settlement or the releases provided by it.

12 43. Release Provided By Plaintiff. As of the Effective Date, in exchange for the Gross
13 Settlement Fund, Plaintiff releases the Released Parties from all wage and hour claims and
14 causes of action arising under the California Labor Code, Business & Professions Code or any
15 other statutory, contractual or common law basis, including but not limited to the Released
16 Claims, and stipulates and agrees that, upon the Effective Date, the Plaintiff will be deemed to
17 have, and by operation of the final judgment will have, expressly waived and relinquished, to the
18 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the
19 California Civil Code, or any other similar provision under federal or state law, which Section
20 provides:
21

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

26 Plaintiff may hereafter discover facts in addition to or different from those she now
27 knows or believes to be true, but upon the Effective Date, will be deemed to have, and by
28 operation of the final judgment will have, fully, finally, and forever settled and released any and
all claims and causes of action against the Released Parties, whether known or unknown,

1 suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have
2 existed, upon any theory of law or equity, including but not limited to conduct that is negligent,
3 intentional, with or without malice, or a breach of any duty, law or rule, without regard to the
4 subsequent discovery or existence of such different or additional facts. Excluded from this
5 release are those claims and causes of action asserted in Plaintiff's separate complaint filed
6 against Defendant, Imperial County Case No. ECU002546.

7 44. Tax Liability. The Parties make no representations as to the tax treatment or legal
8 effect of the payments called for hereunder, and Participating Settlement Class Members are not
9 relying on any statement or representation by the Parties in this regard. Participating Settlement
10 Class Members understand and agree that they will be responsible for the payment of any taxes
11 they may owe, including the employee share of any payroll taxes owed on their Individual
12 Settlement Payments, and shall not be entitled to pursue any claims against any of the Parties for
13 any taxes that may be assessed, or any penalties or interest that may result from Settlement Class
14 Members failing to pay taxes owed by them.

15 45. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
16 the "acknowledging party" and each Party to this Agreement other than the acknowledging party,
17 an "other party") acknowledges and agrees that: (1) no provision of this Agreement, and no written
18 communication or disclosure between or among the Parties or their attorneys and other advisers,
19 is or was intended to be, nor will any such communication or disclosure constitute or be construed
20 or be relied upon as, tax advice within the meaning of United States Treasury Department
21 circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively
22 upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in
23 connection with this Agreement, (b) has not entered into this Agreement based upon the
24 recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not
25 entitled to rely upon any communication or disclosure by any attorney or adviser to any other party
26 to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or
27 adviser to any other Party has imposed any limitation that protects the confidentiality of any such
28 attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon

1 disclosure by the acknowledging party of the tax treatment or tax structure of any transaction,
2 including any transaction contemplated by this Agreement.

3 46. Settlement Administration. Within fourteen (14) calendar days after the Court
4 grants preliminary approval of this Agreement, Defendant will provide the Settlement
5 Administrator with the Class Database for purposes of mailing the Class Notice to Settlement
6 Class Members.

7 a. Notice By First Class U.S. Mail. Upon receipt of the Class Information,
8 the Settlement Administrator will perform a search based on the National Change
9 of Address Database to update and correct any known or identifiable address
10 changes. Within 14 calendar days after receiving the Class Information from
11 Defendant as provided herein, the Settlement Administrator will mail copies of
12 the Class Notice, in English and in Spanish, to all Settlement Class Members via
13 regular First-Class U.S. Mail. The Settlement Administrator will exercise its best
14 judgment to determine the current mailing address for each Settlement Class
15 Member. The address identified by the Settlement Administrator as the current
16 mailing address will be presumed to be the best mailing address for each
17 Settlement Class Member.

18
19 i. Undeliverable Notices. Any Notice Packets returned to the Settlement
20 Administrator as non-delivered on or before the Response Deadline
21 will be re-mailed to the forwarding address affixed thereto. If no
22 forwarding address is provided, the Settlement Administrator will
23 promptly attempt to determine a correct address by use of skip-tracing,
24 or other search using the name, address and/or Social Security number
25 of the Settlement Class Member involved, and will then perform a re-
26 mailing, if another mailing address is identified by the Settlement
27 Administrator. Settlement Class Members who received a re-mailed
28 Notice Packet will have their Response Deadline extended 14 days
from the original Response Deadline.

1 ii. Disputes Regarding Individual Settlement Payments. Settlement Class
2 Members will have the opportunity, should they disagree with
3 Defendant's records regarding the number of relevant workweeks
4 stated on their Class Notice, to provide documentation and/or an
5 explanation to show contrary employment dates/workweeks. If there is
6 a dispute, the Settlement Administrator will consult with the Parties to
7 determine whether an adjustment is warranted. The Settlement
8 Administrator will determine the eligibility for, and the amounts of,
9 any Individual Settlement Payments under the terms of this
10 Agreement. The Settlement Administrator's determination of the
11 eligibility for and amount of any Individual Settlement Payment will
12 be binding upon the Settlement Class Member and the Parties.

13 iii. Disputes Regarding Administration of Settlement. Any disputes not
14 resolved by the Settlement Administrator concerning the
15 administration of the Settlement will be resolved by the Court under
16 the laws of the State of California. Prior to any such involvement of
17 the Court, counsel for the Parties will confer in good faith to resolve
18 the disputes without the necessity of involving the Court.

19 b. Requests for Exclusion. The Class Notice will state that Settlement Class
20 Members who wish to exclude themselves from the Settlement must submit a
21 Request for Exclusion by the Response Deadline. The Request for Exclusion will
22 not be valid if it is not timely submitted, if it is not signed by the Settlement Class
23 Member, or if it does not contain the information described in Paragraph 31,
24 above. The date of the postmark on the return mailing envelope or fax stamp on
25 the Request for Exclusion will be the exclusive means used to determine whether
26 the Request for Exclusion was timely submitted. Any Settlement Class Member
27 who requests to be excluded from the Settlement Class will not be entitled to an
28 Individual Settlement Payment and will not be bound by the terms of the

1 Settlement or have any right to object, appeal or comment thereon. Settlement
2 Class Members who fail to submit a valid and timely Request for Exclusion on or
3 before the Response Deadline will be bound by all terms of the Settlement and
4 any final judgment entered in this Action if the Settlement is approved by the
5 Court. No later than 14 calendar days after the Response Deadline, the Settlement
6 Administrator will provide counsel for the Parties with a final list of the
7 Settlement Class Members who have timely submitted written requests for
8 exclusion. At no time will any of the Parties or their counsel seek to solicit or
9 otherwise encourage members of the Settlement Class to submit requests for
10 exclusion from the Settlement.

11 c. Objections. The Class Notice will state that Settlement Class Members
12 who wish to object to the Settlement must file with the Court and serve on all
13 Parties a written statement of objection (“Notice of Objection”) by the Response
14 Deadline. The date of filing and the date on the proof of service will be deemed
15 the exclusive means for determining that a Notice of Objection was filed and
16 served timely. The Notice of Objection must be signed by the Settlement Class
17 Member and state: (1) the full name of the Settlement Class Member; (2) the dates
18 of employment of the Settlement Class Member; (3) the last four digits of the
19 Settlement Class Member’s Social Security number; (4) the name and case
20 number of the Action; and (5) the factual and legal basis for the objection with
21 any supporting documents and evidence. Settlement Class Members who fail to
22 make objections in the manner specified above will be deemed to have waived
23 any objections and will be foreclosed from making any objections (whether by
24 appeal or otherwise) to the Settlement. Settlement Class Members who submit a
25 timely Notice of Objection will have a right to appear at the Final
26 Approval/Settlement Fairness Hearing in order to have their objections heard by
27 the Court. At no time will any of the Parties or their counsel seek to solicit or
28 otherwise encourage Settlement Class Members to file or serve written objections

1 to the Settlement or appeal from the Order and Final Judgment. Class Counsel
2 will not represent any Settlement Class Members with respect to any such
3 objections.

4 47. Funding and Allocation of Gross Settlement Fund. The Gross Settlement Fund
5 means a total payment amount of \$462,500.00, inclusive of the Class Counsel's Attorney's Fees
6 and Litigation Costs, the Class Representative Enhancement, the PAGA Payment, and Settlement
7 Administration Costs. Within 14 calendar days after the Effective Date, Defendant will provide
8 the Gross Settlement Fund to the Settlement Administrator to fund the Settlement, as set forth in
9 this Agreement.

10 a. Individual Settlement Payments. Individual Settlement Payments will be
11 paid from the Net Settlement Fund and will be paid pursuant to the settlement
12 formula set forth herein. Individual Settlement Payments will be mailed by
13 regular First Class U.S. Mail to Settlement Class Members' last known mailing
14 address within 14 calendar days after Defendant provides funds to the Settlement
15 Administrator for disbursement under this Agreement. Individual Settlement
16 Payments will be allocated as follows: 1/3 (33.33%) as wages; 2/3 (66.67%) as
17 penalties and interest. For Participating Settlement Class Members whose
18 Individual Settlement Payments are less than \$50.00, the entirety of that payment
19 shall be reported on a Form 1099 and paid without withholdings. Any checks
20 issued to Settlement Class Members will remain valid and negotiable for 180 days
21 from the date of their issuance. After that time, any such uncashed checks will be
22 paid to the California State Controller Unclaimed Property Fund, in the name of
23 the Settlement Class Member.

24
25 i. Calculation of Individual Settlement Payments. The Settlement
26 Administrator will calculate the total Compensable Workweeks for all
27 Participating Settlement Class Members. The respective Compensable
28 Workweeks for each Participating Settlement Class Member will be
divided by the total Compensable Workweeks for all Participating

1 Settlement Class Members, resulting in the Payment Ratio for each
2 Participating Settlement Class Member. Each Participating Settlement
3 Class Member's Payment Ratio is then multiplied by the Net Settlement
4 Fund to determine the proportionate allocation. Each Individual
5 Settlement Payment will be reduced by any legally mandated employee
6 tax withholdings (*e.g.*, employee payroll taxes, etc.) for each Participating
7 Settlement Class Member.

8 b. Class Representative Service Award. Defendant agrees not to oppose or
9 object to any application or motion by Plaintiff for a Class Representative
10 Enhancement of up to \$2,500.00 in exchange for the releases provided herein and
11 for her time and effort and risks assumed in bringing and prosecuting this matter.
12 The Class Representative Service Award will be paid to Plaintiff from the Gross
13 Settlement Fund no later than 14 calendar days after Defendant provides funds to
14 the Settlement Administrator for disbursement under this Agreement. The
15 Settlement Administrator will issue an IRS Form 1099 – MISC to Plaintiff for her
16 Class Representative Enhancement. Plaintiff will be solely and legally responsible
17 to pay any and all applicable taxes on his respective Class Representative
18 Enhancement and will hold harmless Defendant from any claim or liability for
19 taxes, penalties, or interest arising as a result of the Class Representative
20 Enhancement. The Class Representative Enhancement will be in addition to the
21 Plaintiff's Individual Settlement Payment as a Participating Settlement Class
22 Member. In the event that the Court reduces or does not approve the requested
23 Class Representative Enhancement, Plaintiff will not have the right to revoke the
24 Settlement, and it will remain binding.

25 c. Class Counsel Attorney's Fees and Litigation Costs. Defendant agrees not
26 to oppose or object to any application or motion by Class Counsel for attorneys'
27 fees not to exceed 1/3 of the Gross Settlement Fund (\$154,000.00), plus
28 reasonable litigation costs and expenses supported by a declaration from Class

1 Counsel, from the Gross Settlement Fund. The award of Class Counsel's
2 Attorney's Fees and Litigation Costs will be paid to Class Counsel from the Gross
3 Settlement Fund no later than 14 calendar days after Defendant provides funds to
4 the Settlement Administrator for disbursement under this Agreement. Class
5 Counsel will be solely and legally responsible to pay all applicable taxes on the
6 payment made pursuant to this paragraph. The Settlement Administrator will issue
7 an IRS Form 1099 – MISC to Class Counsel for the payments made pursuant to
8 this paragraph. In the event that the Court reduces or does not approve the
9 requested Class Counsel Award, that shall not provide a basis for Plaintiff or Class
10 Counsel to revoke the Settlement.

11 d. PAGA Payment. Class Counsel will comply with the settlement provisions
12 of the Private Attorneys General Act of 2004 ("PAGA"), Cal. Labor Code section
13 2699 *et seq.*, including taking the following steps to effectuate settlement: (1)
14 provide a copy of this Agreement to the LWDA at the same time this Agreement
15 is submitted to the Court, and (2) provide to the LWDA a copy of the Court's
16 judgment and any other order that awards or denies PAGA penalties within 10
17 days after entry of judgment or order. Subject to Court approval, the Parties will
18 allocate a PAGA Payment in the amount of \$25,000.00 from the Gross Settlement
19 Fund, to be distributed as follows: 75% or \$18,750.00 to the LWDA; and 25% or
20 \$6,250.00 will be part of the Net Settlement Fund and distributed to Aggrieved
21 Employees (including those that exclude themselves from the Settlement) as
22 described in this Agreement.

23
24 e. Settlement Administration Costs. The Settlement Administrator will be
25 paid for the costs of administration of the Settlement from the Gross Settlement
26 Fund. The estimate of such costs of administration for the disbursement of the
27 Gross Settlement Fund is \$40,000. No fewer than 21 days prior to the Final
28 Approval Hearing, the Settlement Administrator will provide the Parties with a
statement detailing the costs of administration of this Settlement. The Settlement

1 Administrator will be paid the Settlement Administration Costs no later than 14
2 calendar days after Defendant provides funds to the Settlement Administrator for
3 disbursement under this Agreement. The Settlement Administrator, on
4 Defendant's behalf, will have the authority and obligation to make payments,
5 credits and disbursements, including payments and credits in the manner set forth
6 herein, to Settlement Class Members calculated in accordance with the
7 methodology set out in this Agreement and orders of the Court.

8 i. The Parties agree to cooperate in the Settlement administration
9 process and to make all reasonable efforts to control and minimize the cost
10 and expenses incurred in administration of the Settlement. The Parties
11 each represent they do not have any financial interest in the Settlement
12 Administrator or otherwise have a relationship with the Settlement
13 Administrator that could create a conflict of interest.

14 ii. The Settlement Administrator will be responsible for: processing
15 and mailing payments to the Plaintiff, Class Counsel, and Settlement Class
16 Members; printing, translating and mailing the Notice Packets and
17 postcards to the Settlement Class Members as directed by the Court;
18 receiving and reporting the Request for Exclusions submitted by
19 Settlement Class Members; deducting taxes from Individual Settlement
20 Payments and distributing tax forms; processing and mailing tax payments
21 to the appropriate state and federal taxing authorities; providing
22 declaration(s) as necessary in support of preliminary and/or final approval
23 of this Settlement; and other tasks as the Parties mutually agree or the
24 Court orders the Settlement Administrator to perform. The Settlement
25 Administrator will keep the Parties timely apprised of the performance of
26 all Settlement Administrator responsibilities. No later than 25 calendar
27 days after the Response Deadline, the Settlement Administrator will
28 provide counsel for the Parties with a final accounting of the Gross

1 Settlement Fund and report the amount of all payments to be made to each
2 Settlement Class Member by employee number.

3 f. No person will have any claim against Defendant, Plaintiff, Settlement
4 Class Members, Class Counsel or the Settlement Administrator based on
5 distributions and payments made in accordance with this Agreement.

6 48. Defendant's Option to Terminate Settlement. If more than 5% of the Settlement
7 Class Members timely exclude themselves from the Settlement, Defendant shall have the right to
8 terminate the Settlement. In the event of a termination by Defendant, Defendant shall be
9 responsible for paying only the Settlement Administration Expenses incurred up to that point.

10 49. Compensable Workweeks Covered by Settlement. The Settlement is premised on
11 Defendant's representation that, as of approximately June 30, 2023, there were 6,869
12 Settlement Class Members, and 52,479 Compensable Workweeks. If the total number of
13 Compensable Workweeks exceeds 52,479 by more than 15%, then Defendant will have the
14 option to either (1) pay a proportional increase in the Gross Settlement Amount based on the
15 percentage increase beyond the 15% buffer, or (2) modify the applicable Class Period's end date
16 to a date prior to the date of Preliminary Court Approval to reduce the relevant time period so
17 that the number of Workweeks does not exceed the 15% buffer.

18 50. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration
19 of the Response Deadline, with the Court's permission, a Final Approval/Settlement Fairness
20 Hearing will be conducted to determine final approval of the Settlement along with the amount
21 properly payable for (i) the Class Counsel's Attorney's Fees and Litigation Costs, (ii) the Class
22 Representative Enhancement, (iii) Individual Settlement Payments, (iv) the PAGA Payment, and
23 (v) the Settlement Administration Costs. Pursuant to California Rule of Court 3.769(h), after
24 granting Final Approval, the Court will retain jurisdiction over the Parties to enforce the terms of
25 the judgment.

26 51. Nullification of Settlement Agreement. In the event: (i) the Court does not grant
27 preliminary approval; (ii) the Court does not grant final approval; (iii) the Court does not enter a
28 final judgment as provided herein; or (iv) the Settlement does not become final for any other

1 reason, this Settlement Agreement will be null and void and any order or judgment entered by
2 the Court in furtherance of this Settlement will be treated as void from the beginning. In such a
3 case, the Parties will first attempt to remedy any defects identified by the Court with respect to
4 the Agreement, preliminary approval, and/or final approval. If any defects cannot reasonably be
5 remedied, the Parties will proceed in all respects as if this Agreement had not been executed,
6 except that any costs already incurred by the Settlement Administrator will be paid by
7 Defendant.

8 52. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Settlement
9 Class Members pursuant to this Agreement will not have any effect on the eligibility for, or
10 calculation of, any of the employee benefits (*e.g.*, vacations, holiday pay, retirement plans, etc.)
11 of the Plaintiff or Settlement Class Members.

12 53. No Admission By the Parties. Defendant denies any and all claims alleged in this
13 Action and denies all wrongdoing whatsoever. This Agreement is not a concession or admission,
14 and will not be used against Defendant as an admission or indication with respect to any claim of
15 any fault, concession or omission by Defendant.

16 54. Headings. The descriptive headings of any paragraphs or sections of this
17 Agreement are inserted for convenience of reference only and do not constitute a part of this
18 Agreement.

19 55. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
20 Action, except such proceedings necessary to implement and complete the Settlement, in
21 abeyance pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

22 56. Amendment or Modification. This Agreement may be amended or modified only
23 by a written instrument signed by counsel for all Parties.

24 57. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
25 Agreement among these Parties, and no oral or written representations, warranties or
26 inducements have been made to any Party concerning this Agreement or its Exhibits other than
27 the representations, warranties and covenants contained and memorialized in the Agreement and
28 its Exhibits.

1 58. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
2 and represent they are expressly authorized by the Parties whom they represent to negotiate this
3 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
4 pursuant to this Agreement to effectuate its terms, and to execute any other documents required
5 to effectuate the terms of this Agreement. The Parties and their respective counsel will cooperate
6 with each other and use their best efforts to effect the implementation of the Settlement. The
7 persons signing this Agreement on behalf of Defendant represent and warrant that they are
8 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that
9 she is authorized to sign this Agreement and that she has not assigned any claim, or part of a
10 claim, covered by this Settlement to a third-party.

11 59. Binding on Successors and Assigns. This Agreement will be binding upon, and
12 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13 60. California Law Governs. All terms of this Agreement and the Exhibits hereto and
14 any disputes arising hereunder will be governed by and interpreted according to the laws of the
15 State of California.

16 61. Disputes. In the event that there are disputes in the meaning of any settlement
17 documents, the Parties will first seek to resolve such disputes between the Parties' respective
18 counsel. If disputes remain, the Parties will then present such disputes to the Mediator (Hon.
19 Partick O'Hara (Ret.)).

20 62. Execution; Counterparts. This Agreement may be executed in one or more
21 counterparts. All executed counterparts and each of them will be deemed to be one and the same
22 instrument provided that counsel for the Parties to this Agreement will exchange among
23 themselves copies or originals of the signed counterparts. This Agreement may be executed
24 electronically (e.g., via DocuSign or similar application).

25 63. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
26 Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this
27 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
28 present and potential.

64. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h), the Parties agree that the Court will retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

65. No Publicity. The Parties and their counsel agree that there will be no publicity, marketing, or advertising of the terms of this Agreement or of the Settlement. Required filings with the courts or public agencies in connection with this Agreement, including but not limited to those for purposes of Court approval of the Agreement, and for approval of awards for Class Counsel's Attorney's Fees and Litigation Costs, and for Class Representative Enhancement, and notice to the LWDA, are permitted. This paragraph shall not preclude Class Counsel from responding to inquiring regarding the Settlement by Settlement Class Members, or persons who believe that they have been incorrectly excluded from the Settlement.

[Signatures on following page]

1 **PLAINTIFF:**

2 Dated: August 31, 2023

PLAINTIFF ISABEL SANCHEZ

3  _____

4 Isabel Sanchez

5 **DEFENDANT:**

6 Dated: August 31, 2023

DEFENDANT AGRO PACK, LLC

8 _____
9 By: _____

10 Title: _____
11

12 **CLASS COUNSEL:**

13 Dated: August 31, 2023

VAN HOOK LAW FIRM
THE BYRNE LAW GROUP

14  _____

15 John A. Van Hook

16 Adrian C. Byrne

17 Attorneys for Plaintiff ISABEL SANCHEZ, the
18 Putative Class, and all Aggrieved Employees

19 **DEFENSE COUNSEL:**

20 Dated: August 31, 2023

LITTLER MENDELSON, P.C.

21 _____
22 Gerardo Hernandez

23 Cody C. Chapple

24 Attorneys for Defendant AGRO PACK, LLC
25
26
27
28

Exhibit A-1

NOTICE OF CLASS ACTION SETTLEMENT

Isabel Sanchez v. Agro Pack, LLC

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment. Unless you request to be excluded from the settlement, your legal rights may be affected.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of Imperial (the "Court"), you are notified that preliminary approval of a class action settlement reached between Isabel Sanchez ("Plaintiff") and Agro Pack, LLC ("Defendant", together "the Parties") was granted on **[Preliminary Approval Date]**, in the case entitled *Isabel Sanchez v. Agro Pack, LLC*, Imperial County Superior Court Case No. ECU002547 (the "Action"), which may affect your legal rights.

If you are a Class Member (or member of the Class), you need not take any action to receive a settlement payment, but you have the opportunity to request exclusion from the settlement (in which case you will not receive payment under the settlement), object to the settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Section III below.

I. IMPORTANT DEFINITIONS

"**Class**" means any and all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time from September 13, 2018, to **[Preliminary Approval Date]**.

"**Class Member**" means a member of the Class.

"**Class Period**" means the time period from September 13, 2018, to **[Preliminary Approval Date]**.

II. BACKGROUND OF THE ACTION

On September 13, 2022, Plaintiff commenced a class action suit against Defendant by filing her Class Action Complaint for Damages in Imperial County Superior Court.

Plaintiff alleged that Defendant violated the California Labor Code and California Business and Professions Code with respect to herself and the Class Members by, *inter alia*, failing to properly pay for all hours worked, failing to provide legally-compliant meal periods, failing to reimburse business expenses, failing to keep accurate payroll records, failing to provide accurate wage statements, failing to pay waiting time penalties, engaging in unfair business practices, and owing penalties under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* ("PAGA").

Collectively, Plaintiff seeks, among other things, recovery on behalf of the Class of unpaid wages and meal period premiums, unreimbursed expenses, restitution, declaratory relief, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action or that it violated any law with respect to Plaintiff or the Class Members, and contends that at all times it has fully complied with all applicable federal, state, and local laws. It is Defendant's position that, if litigation continued, class certification would be denied on all claims and/or the claims would be defeated on the merits.

Following a mediation with a neutral retired judge, the Parties reached a settlement. The Parties have since entered into the **Joint Stipulation of Class Action Settlement and Release** ("Settlement" or "Settlement Agreement").

The Court has appointed **Phoenix Settlement Administrators** as the administrator of the settlement ("Settlement Administrator"), Plaintiff as representative of the Class ("Class Representative"), and the following law firms as counsel for the Class ("Class Counsel"):

John A. Van Hook
Van Hook Law Firm
14156 Magnolia Blvd., Suite 200
Sherman Oaks, California 91423

Adrian Byrne
The Byrne Law Group
8605 Santa Monica Blvd., Suite 4897
West Hollywood, California 90069

The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff or to Class Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of the Class Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total Gross Settlement Sum is Six Hundred and Seventy Thousand Dollars (\$462,500.00) (the “Gross Settlement Sum”). The portion of the Gross Settlement Sum that is available for payment to Class Members who do not timely and validly request exclusion from the settlement (“Participating Class Members”) is referred to as the “Net Settlement Sum.” The Net Settlement Sum will be the Gross Settlement Sum less the following payments which are subject to Court approval: (1) attorneys’ fees in the amount of up to \$154,000.00 and reimbursement of litigation costs and expenses in the amount of up to **\$4,000.00** to Class Counsel (“Attorneys’ Fees and Costs”); (2) an enhancement to Plaintiff in the amount of up to \$2,500.00 (“Service Payment”); (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount not to exceed \$40,000.00 (“Settlement Administration Costs”); and (4) the seventy-five percent (75%) share of PAGA Penalties (“LWDA Payment”) in the amount of \$18,750.00 to the California Labor and Workforce Development Agency (“LWDA”).

Participating Class Members will be entitled to receive payment under the settlement of their share of the Net Settlement Sum (“Individual Settlement Amount”) based on number of workweeks worked by the Class Members as hourly-paid or non-exempt employees for Defendant from September 13, 2018, through **[Preliminary Approval Date]** in the State of California (“Workweeks”). Workweeks were calculated based on the start and end dates of each Class Member’s employment or work period during the Class Period and dividing by seven.

Class Members that do not exclude themselves from the settlement will receive an Individual Settlement Amount in proportion to their number of weeks worked for Defendant from September 13, 2018, through **[Preliminary Approval Date]**, and the total number of weeks worked by all Participating Class Members.

If the Court grants final approval of the settlement, Individual Settlement Payments will be mailed to Participating Class Members at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.**

Participating Class Members will receive their Individual Settlement Amounts no later than 45 calendar days after the Effective Date.

B. Your Workweeks Based on Defendant’s Records

According to Defendant’s payroll records:

From September 13, 2018, through **[Preliminary Approval Date], you worked **[]** Workweeks for Defendant.**

A description of how Workweeks were calculated and credited to Class Members is described above in Section III.A. If you wish to dispute the Workweeks credited to you, you may submit such dispute (a “Workweeks Dispute”) in writing to the Settlement Administrator. The written dispute must: (a) contain your full name, address, telephone number, the last

four digits of your Social Security Number, and signature; (b) contain the case name and number of the Action (*Isabel Sanchez v. Agro Pack, LLC*, Imperial County Superior Court Case No. ECU002547); (c) contain a clear statement indicating that you dispute the number of Workweeks credited to you; and (d) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **no later than [Response Deadline]**.

C. Your Estimated Individual Settlement Amount

As explained above, your estimated Individual Settlement Payment is based on the number of Workweeks credited to you.

Your Individual Settlement Amount is estimated to be \$ [redacted].

Your Individual Settlement Amount reflected in this Notice is only an estimate. Your actual Individual Settlement Payment may be higher or lower. The Individual Settlement Amount is subject to reduction for employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Amount and will only be distributed if the Court approves the settlement and after the settlement goes into effect.

The settlement approval process may take multiple months.

D. Released Claims

Upon the Effective Date, each of the Participating Class Members (including the Class Representative) will be deemed to have, and by operation of the Judgment will have fully, finally, and forever released, relinquished and discharged Defendant and the Released Parties from any and all Released Claims from September 13, 2018, through **[Preliminary Approval Date]**.

"Released Claims" by the Participating Class Members includes, but are not limited to, all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever including without limitation statutory, constitutional, contractual or common law claims, against the Released Parties (as defined below), and any of them, for relief and penalties, that accrued during the Class Period, and as a result of Class Members' employment by Defendant in California, that arise under any state or local law or state administrative order that was or could have been pled based on the facts alleged in the operative Class Action Complaint, including claims of failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal periods and/or associated premiums, failure to provide accurate wage statements, failure to pay wages timely at termination, unfair competition, PAGA penalties and violations of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 17200, the applicable Wage Order of the Industrial Wage Commission, civil penalties pursuant to § 2698, *et seq.* and other related penalties, and California Business & Professions Code §§ 17200 to 17208, including without limitation all related claims for restitution and other equitable relief arising from California Business and Professions Code §§ 17200, *et seq.*, interest on unpaid wages, unpaid wages, attorneys' fees or litigation costs, and any other related claims and/or penalties, including civil penalties. The release does not extend to any claims not alleged in the operative Class Action Complaint and specifically excludes claims for workers' compensation, personal injuries, unemployment insurance, state disability compensation, stock ownership benefits, retirement benefits, claims under the Employment Retirement Income Security Act of 1974, previously vested benefits under any employer sponsored benefits plan, wrongful termination, discrimination, retaliation, and harassment including but not limited to those arising under the Age Discrimination In Employment Act, the California Fair Employment and Housing Act, Title VII of the Federal Civil Rights Act of 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal laws, the California Family Rights Act, the Federal Family Medical Leave Act, the California Pregnancy Leave Law, or similar state or federal laws, the Federal Equal Pay Act of 1963, violations of the Americans with Disabilities Act of 1990 or violations of any other state or federal law, rule or regulation concerning discrimination, retaliation and/or harassment.

"Released Parties" means Defendant Agro Pack LLC, and each of its parent companies, subsidiaries, affiliates, current and former management companies, shareholders, members, agents (including any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in the amount of \$154,000.00 and reimbursement of litigation costs and expenses in an amount not to exceed \$4,000.00, to be paid from the Gross Settlement Sum, subject to approval by the Court. Class Counsel has been prosecuting the Action on behalf of Plaintiff and Class Members on a contingency fee basis (that is,

without being paid any money to date) and has been paying all litigation costs and expenses.

F. Service Payment to Plaintiff

Plaintiff will seek the amount of Two Thousand Five Hundred Dollars (\$2,500.00) as a service award in recognition of her services in connection with the Action. The Service Payment will be paid from the Gross Settlement Sum subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to her Individual Settlement Payment that she is entitled to under the settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed \$40,000.00 for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the settlement, processing requests for exclusion, any workweek disputes and objections, calculating Individual Settlement Payments, and distributing payments and necessary tax forms, and shall be paid from the Gross Settlement Sum subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to receive money from the settlement, do nothing. You will automatically be issued your Individual Settlement Payment unless you exclude yourself from the settlement. Unless you timely exclude yourself from the Settlement, you will be bound by the terms of the settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Claims against the Released Parties as described in Section III.D above. As a Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the settlement, you may seek exclusion from the settlement by submitting a written request to be excluded from the settlement ("Request for Exclusion") to the Settlement Administrator at the following address:

***Isabel Sanchez v. Agro Pack, LLC c/o
Phoenix Settlement Administrators
P.O. Box 7208, Orange, CA 92863***

A request for exclusion must: (a) contain your full name, address, the last 4 digits of Social Security Number, and signature; (b) contain the case name and number of the Action (*Isabel Sanchez v. Agro Pack, LLC*, Imperial County Superior Court Case No. ECU002547); (c) contain a statement indicating that you wish to be excluded from the settlement; and (4) be mailed to the Settlement Administrator at the address listed above, postmarked **no later than [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be entitled to receive any payment from the settlement, will not be bound by the settlement (and the release of Released Claims stated in Section III.D above), and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

C. Object to the Settlement

You can object to the terms of the settlement as long as you have not submitted a Request for Exclusion.

To object, you must do so by way of a written objection that: (a) contains your full name, dates of employment as a non-exempt, hourly-paid employee of Defendant in California, the last 4 digits of your Social Security Number, and signature; (b) contains the case name and number of the Action (*Isabel Sanchez v. Agro Pack, LLC*, Imperial County Superior Court

Case No. ECU002547); (c) all legal and factual bases for the objection to the Settlement; (d) whether you intend to appear at the Final Approval Hearing; (e) whether you are represented by legal counsel, and if so, identify the legal counsel and their address; and (f) is mailed to the Settlement Administrator and postmarked **no later than [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department [] of Imperial County Superior Court at 939 W. Main Street, El Centro, CA 92243, on **[Final Approval Hearing Date]**, at **[Time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees and costs to Class Counsel, Service Payments to Plaintiff, and Settlement Administration Costs to the Settlement Administrator should be awarded.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to do so.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action at the Imperial County Superior Court at 939 W. Main Street, El Centro, CA 92243, during business hours, or through the Court's website at <https://www.imperial.courts.ca.gov/>.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

Exhibit B

HON. PATRICK J. O'HARA (Ret.)
TULARE COUNTY SUPERIOR COURT

Judge Patrick J. O'Hara (Ret.) is a twenty-seven year veteran of the Tulare County courts. He has been a sought-after settlement judge who has developed a reputation for fair and efficient resolution of civil cases.

- Judge O'Hara was elected Presiding Judge by his peers on multiple occasions, including being elected Presiding Judge for consecutive terms during the consolidation of the Superior and Municipal courts.
- Judge O'Hara has extensive experience in hearing and settling cases in all phases of civil litigation, including medical malpractice, products liability, water rights, business disputes, wrongful termination, insurance bad faith and probate.
- Judge O'Hara has a strong belief in the value of mediation and will work diligently with the parties to reach a fair resolution of legal disputes.
- His broad knowledge of the court system will serve as an invaluable aid in assisting parties in resolving disputes.
- In addition to his extensive experience in helping parties reach amicable resolutions in court, Judge O'Hara has completed mediation training through the Strauss Institute at Pepperdine University, Fresno Pacific University, and California Judicial Research and Education.
- Judge O'Hara began his career with the Tulare County District Attorney's Office where he was soon promoted to Chief Trial Attorney and later to the position of the Assistant District Attorney. He has participated in hundreds of trials, both as an attorney and as a judge.
- Mediated over 300 broad-ranging matters, including business and commercial disputes, employment, labor and wage and hour, elder abuse, partnership dissolutions, personal injury, products liability, professional malpractice, real property, sexual abuse and probate and trust matters.

Judicial, Arbitration and Mediation Experience

2012-present	Retired Judge, Mediator, Arbitrator, Discovery Referee
1992-2011	Judge of the Tulare County Superior Court
1985-1992	Judge of the Visalia Municipal Court

Education

1976	Graduated University of the Pacific, McGeorge School of Law; Member of the California State Bar Association; State Bar Number 72138
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Other Professional Experience

1976-1977	Hearing Officer with State of California, Board of Parole Hearings
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Contact Information

Judge Patrick J. O'Hara (Ret.)

Arbitration and Mediation Services

300 North Willis Street

Visalia, CA 93291

Telephone (559) 429-4570

Facsimile (559) 429-4575

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Email Judgeohara@judgeohara.com

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