

1 **SETTLEMENT AGREEMENT OF CLASS ACTION AND PRIVATE ATTORNEYS**

2 **GENERAL ACT CLAIMS**

3 This Settlement Agreement of Class Action and Private Attorneys General Act Claims is
4 made between Marcela Gomez and Maribel Peralta (“Plaintiffs”) as individuals and on behalf of
5 all others similarly situated and on behalf of the State of California and all other allegedly
6 aggrieved employees pursuant to the Private Attorneys General Act, on the one hand, and
7 Defendant Producers Meat and Provision, Inc. (“Defendant”) (Plaintiffs and Defendant
8 collectively constitute the “Parties” and individually, a “Party”) on the other hand, in the Lawsuit
9 pending in San Diego County Superior Court (as defined below). This Settlement was reached
10 following a full-day mediation conducted on March 20, 2024.

11 **I. DEFINITIONS**

12 A. “Agreement” or “Settlement” or “Settlement Agreement” means this Settlement,
13 Agreement of Class Action and Private Attorneys General Act Claims, and all exhibits attached
14 hereto and incorporated herein, including all subsequent amendments agreed to in writing by the
15 Parties and any exhibits to such amendments.

16 B. “Class Counsel” means Zachary Cantor of CANTOR LAW, 1112 Montana
17 Avenue, Suite C, Santa Monica, CA 90403.

18 C. “Class Counsel Costs Award” means the amount not to exceed Sixteen Thousand
19 Dollars (\$16,000.00) to be paid from the Gross Settlement Amount, subject to approval by the
20 Court, for Class Counsel’s litigation costs and expenses incurred in investigation, litigation, and
21 resolution of the Lawsuit, and administration of the Settlement, including anticipated costs
22 incurred through Final Approval and disbursement of payments under this Settlement Agreement
23 and obtaining entry of the judgment terminating the Lawsuit. Defendant shall not oppose or
24 otherwise object to any request made consistent with this paragraph.

25 D. “Class Counsel Fees Award” means the amount not to exceed thirty-five percent
26 (35%) of the Gross Settlement Amount [i.e., approximately Two Hundred Fifty-Three Thousand
27 Fifty Dollars (\$253,050.00)], to be paid from the Gross Settlement Amount, subject to approval
28 by the Court, for Class Counsel’s attorneys’ fees incurred in investigation, litigation, and

1 resolution of the Lawsuit, and administration of the Settlement, including anticipated fees
2 incurred through Final Approval and disbursement of payments under this Settlement Agreement
3 and obtaining entry of the judgment terminating the Lawsuit. Defendant shall not oppose or
4 otherwise object to any request made consistent with this paragraph.

5 **E.** “Class Members” mean all individuals who are or were employed by Defendant
6 as non-exempt employees in California at any time during the Class Period, including non-
7 exempt employees of staffing agency Southwest Staffing (“Southwest”) who worked at
8 Defendant’s San Diego facility at any time during the Class Period. The “Class Period” is
9 defined below to mean the period from September 19, 2018, through the date of preliminary
10 approval by the Court.

11 **F.** “Class Member Payments” means the amount payable from the Class Payout
12 Fund to each Class Member. Class Member Payments are separate and distinct from the
13 Individual PAGA Payments that will be paid to PAGA Settlement Members.

14 **G.** “Class Payout Fund” means all funds remaining from the Gross Settlement
15 Amount after deducting the Court-awarded Plaintiffs Enhancement Payment, Class Counsel Fees
16 Award, Class Counsel Costs Award, Settlement Administration Costs, and PAGA Amount.

17 **H.** “Class Period” means the time period from September 19, 2018 through the date
18 of preliminary approval by the Court.

19 **I.** “Class Settlement” means the non-PAGA portion of the settlement embodied in
20 this Settlement Agreement to settle and resolve the Settlement Class Released Claims of
21 Settlement Class Members.

22 **J.** “Court” means the Superior Court of California for the County of San Diego,
23 located at San Diego, CA, where the Lawsuit is currently pending.

24 **K.** “Defendant’s Counsel” means Adam R. Rosenthal and Robert K. Foster of
25 Sheppard, Mullin, Richter & Hampton LLP, 12275 El Camino Real, San Diego, California
26 92130.

27 **L.** “Effective Date” means the date by which the Settlement and judgment becomes
28 final. For purposes of this Settlement Agreement, the Settlement and judgment “becomes final”

1 only after the Court grants the Motion for Final Approval of the Settlement and upon service of
2 the Notice of Entry of Order and/or Judgment, and upon the latter of: (i) if no appeal, or other
3 challenge is filed, the sixty-first (61st) day following Notice of Entry of the Court's Order and/or
4 Judgment; (ii) the date of affirmance of an appeal of the Order Granting Final Approval and/or
5 Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal of
6 any appeal from the Order Granting Final Approval and/or Judgment or the final dismissal of
7 any proceeding on review of any court of appeal decision relating to the Order Granting Final
8 Approval and/or Judgment. In this regard, it is the intention of the Parties that the Settlement
9 shall not become effective, and Defendant will not be obligated to fund this Settlement, until the
10 Court's order approving the Settlement becomes final, and there is no further recourse by an
11 appellant, objector, or intervenor who seeks to contest the Settlement.

12 **M.** "Employee List" means the list of all Employees that Defendant will diligently
13 and in good faith compile from its records and the records of Southwest and Randstad USA
14 ("Randstad") (collectively, the "Agencies") to accurately reflect Employees' last-known full
15 names, mailing address, telephone number, last four digits of Social Security number,
16 Workweeks, and Pay Periods.

17 **N.** "Employees" means the Class Members and PAGA Settlement Members
18 collectively.

19 **O.** "Final Approval" means the Court's order granting final approval of the
20 Settlement Agreement.

21 **P.** "Gross Settlement Amount" means a non-reversionary common fund to be paid
22 jointly and severally by the Defendant in the amount of Seven Hundred Twenty-Three Thousand
23 Dollars (\$723,000.00), subject to increase pursuant to Section III.J.6.b herein, and includes
24 without limitation any and all payments Defendant may be responsible for under the Settlement
25 including Class Counsel Fees Award, Class Counsel Costs Award, Plaintiffs Enhancement
26 Payment, Class Member Payments, the PAGA Amount (which includes payment to the LWDA
27 and PAGA Settlement Members), Settlement Administration Costs, and employee-side payroll
28 taxes. Defendant and Southwest Staffing will be required to separately pay, in addition to the

1 Gross Settlement Amount, the employer’s share of any payroll taxes and contributions due and
2 owing on the wages portion of Class Member Payments as a result of the Settlement.

3 **Q.** “Individual PAGA Payment” means the amount of the PAGA payment that is
4 payable to each PAGA Settlement Member. Class Member Payments are separate and distinct
5 from the Individual PAGA Payments that will be paid to PAGA Settlement Members.

6 **R.** “Lawsuit” means the lawsuit entitled *Marcela Gomez et al. v. Producers Meat*
7 *and Provision, Inc.* filed in San Diego County Superior Court, on or about November 29, 2022,
8 Case No. 37-2022-00037381-CU-OE-NC.

9 **S.** “LWDA” means the California Labor and Workforce Development Agency.

10 **T.** “Plaintiffs Enhancement Payment” means the not to exceed Ten Thousand
11 Dollars (\$10,000) to be paid to each Plaintiff for their time and effort spent pursuing the Lawsuit,
12 for the risks associated with suing Defendant, and for their agreement to enter into a general
13 release of all claims. Defendant shall not oppose or otherwise object to any requests made
14 consistent with this paragraph.

15 **U.** “PAGA” means the California Private Attorneys General Act, California Labor
16 Code §§ 2698 *et seq.*

17 **V.** “PAGA Amount” means the payment to the LWDA and the PAGA Settlement
18 Members in settlement of all claims for PAGA penalties, as defined in Section III.C.3 of this
19 Settlement Agreement.

20 **W.** “PAGA Period” means the time period beginning September 19, 2021 through the
21 date of preliminary approval by the Court.

22 **X.** “PAGA Settlement” means the PAGA portion of the settlement identified in this
23 Settlement Agreement, to settle and resolve the PAGA Released Claims of the State the
24 California with respect to the PAGA Settlement Members.

25 **Y.** “PAGA Settlement Members” means all individuals who are or were employed
26 by Defendant as non-exempt employees in California at any time during the PAGA Period,
27 including the non-exempt employees of the Agencies (i.e., Southwest and Randstad) who
28 worked at Defendant’s facility at any time during the PAGA Period. The “PAGA Period” is

1 defined above to mean the period from September 19, 2021 through the date of preliminary
2 approval by the Court.

3 **Z.** “Pay Periods” means the number of full pay periods that PAGA Settlement
4 Members worked in California for Defendant, or for the Agencies at Defendant’s facility, in a
5 non-exempt or hourly position during the PAGA Period, exclusive of breaks in service or leaves
6 of absence.

7 **AA.** “Qualified Settlement Account” means the account established by the Settlement
8 Administrator pursuant to Internal Revenue Code section 1.468B-1.

9 **A.** “Released Parties” means Defendant and Southwest, and each of their past,
10 present and future agents, employees, servants, officers, directors managing agents, members,
11 owners (whether direct or indirect), partners, trustees, representatives, shareholders,
12 stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations
13 and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint
14 venturers, joint employers, potential and alleged joint employers, temporary staffing agencies,
15 common law employers, potential and alleged common law employers, dual employers, potential
16 and alleged dual employers, co-employers, potential and alleged co-employers, contractors,
17 affiliates, service providers, alter-egos, potential and alleged alter-egos, vendors, affiliated
18 organizations, any person and/or entity with potential or alleged to have joint liability, and all of
19 their respective past, present and future employees, directors, officers, members, owners, agents,
20 representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other
21 service providers, and assigns.

22 **B.** “Settlement Administration Costs” means the costs payable from the Gross
23 Settlement Amount, subject to Court approval, to the Settlement Administrator for administering
24 the Settlement, including, but not limited to, the Settlement Administrator’s responsibilities
25 outlined in this Settlement Agreement, and which shall not exceed Twenty-Two Thousand Five
26 Hundred Dollars (\$22,500.00). Defendant shall not oppose or otherwise object to any request
27 made consistent with this paragraph.
28

1 **C.** “Settlement Administrator” means Rust Consulting, Inc., whom the Parties
2 mutually agree shall be responsible for the administration of the Settlement, distribution of any
3 amounts owed under this Settlement, and matters necessarily related thereto, pursuant to the
4 terms of this Settlement Agreement.

5 **D.** “Settlement Class” means a conditionally-certified class consisting of Settlement
6 Class Members.

7 **E.** “Settlement Class Member” means any Class Member who does not submit a
8 timely and valid Request for Exclusion from the Settlement Class.

9 **F.** “Workweeks” means the number of full workweeks that a Class Member worked
10 in California for Defendant in a non-exempt or hourly position during the Class Period, including
11 non-exempt employees of Southwest who worked at Defendant’s facility at any time during the
12 Class Period, exclusive of breaks in service or leaves of absence.

13 **II. RECITALS**

14 **A. Background and Procedural History**

15 1. On September 19, 2022, Plaintiffs Marcela Gomez and Maribel Peralta
16 filed the Lawsuit in the Superior Court of California, County of San Diego, a putative class
17 action complaint against Defendant, alleging causes of action for: (1) failure to provide rest
18 periods or pay one hour of additional wages in lieu thereof; (2) failure to provide meal periods or
19 pay one hour of additional wages in lieu thereof; (3) failure to pay reporting time wages and
20 other wages; (4) failure to timely pay compensation due and owing in violation of California
21 Labor Code § 203; (5) failure to comply with itemized employee wage statement provisions; and
22 (6) unfair business practices - California Business and Professions Code §§ 17200-17208.

23 2. On November 29, 2022, Plaintiff Maribel Peralta filed a notice with the
24 LWDA pursuant to Labor Code section 2699.3, stating she intended to serve as a proxy of the
25 LWDA to recover civil penalties for various alleged Labor Code violations (“PAGA Notice”).

26 3. On December 22, 2022, Plaintiffs filed their first amended complaint in
27 the Lawsuit, which addressed some alleged deficiencies noted by Defendant.
28

1 4. On March 13, 2023, Plaintiffs filed their second amended complaint in the
2 Lawsuit, which added a cause of action for violation of PAGA (Labor Code § 2698 *et seq.*) and
3 is the operative complaint in the Lawsuit.

4 5. On March 20, 2024, Plaintiffs and Defendant attended a full-day
5 mediation with the highly-respected and experienced wage and hour class action and PAGA
6 mediator Gig Kyriacou. After a full-day mediation, the parties ultimately reached a long-arm
7 negotiated settlement.

8 **B.** Throughout the pendency of the Lawsuit, the Parties informally exchanged
9 documents and information for settlement purposes in connection with the March 20, 2024
10 mediation. Based on a thorough investigation and evaluation of these matters, Class Counsel and
11 Plaintiffs have concluded that the Settlement with Defendant for the consideration and on the
12 terms set forth in this Settlement Agreement, is fair, reasonable, adequate, and is in the best
13 interest of the Employees in light of all known facts and circumstances, including the risk of
14 significant delay, and the defenses asserted by Defendant.

15 **C.** Plaintiffs have fully investigated the factual and legal bases for the causes of
16 action asserted in the Lawsuit. As a result of Plaintiffs' investigation, Plaintiffs continue to
17 believe their claims are viable and that Defendant violated the California Labor Code and/or the
18 relevant IWC Wage Order(s). Defendant has denied all allegations and contends that the claims
19 asserted in the Lawsuit have no merit and cannot give rise to liability on behalf of Defendant.
20 Given the disagreement between the Parties as to the viability of these claims, the Parties believe
21 the Settlement provided for herein is a fair, adequate, and reasonable settlement.

22 **D.** Plaintiffs recognize the expense and length of continued proceedings necessary to
23 continue the litigation against Defendant through trial and through any possible appeals.
24 Plaintiffs have also taken into account the uncertainty and risk of the outcome of further
25 litigation, and the difficulties and delays inherent in such litigation. Plaintiffs are also aware of
26 the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit,
27 Defendant's defenses thereto, and the difficulties in establishing damages and entitlement to
28 monetary recovery for Employees. Plaintiffs have also taken into account the informal discovery

1 undertaken and settlement negotiations conducted, which negotiations resulted in the material
2 settlement terms set forth herein. Based on the foregoing, Plaintiffs have determined that the
3 Settlement set forth in this Settlement Agreement is a fair, adequate, and reasonable settlement,
4 and is in the best interests of Employees.

5 **E.** Defendant has concluded that any further defense of this litigation would be
6 protracted and expensive for all Parties. Defendant has devoted substantial amounts of time,
7 energy and resources to the defense of the claims asserted in the Lawsuit and, unless this
8 Settlement is made, will continue to do so for the foreseeable future. For these reasons,
9 Defendant has agreed to settle the matter upon the terms set forth in this Settlement Agreement,
10 to put to rest the claims as set forth in the Lawsuit.

11 **F.** Defendant has denied and continues to deny each of the claims and contentions
12 alleged in the Lawsuit. Defendant has repeatedly asserted and continues to assert defenses
13 thereto, and has expressly denied and continues to deny any wrongdoing or legal liability arising
14 out of any of the facts or conduct alleged in the Lawsuit. Defendant also has denied and
15 continues to deny, *inter alia*, the allegations that Employees have suffered damages; that
16 Defendant failed to properly provide meal and rest periods; that Defendant improperly failed to
17 pay Employees all wages owed, including reporting time wages, minimum wages and overtime
18 wages; that Defendant failed to timely pay all wages due and owed at the separation of
19 employment; that Defendant provided Employees with inaccurate wage statements; that
20 Defendant violated any provisions of the California Labor Code or any IWC Wage Order; that
21 Defendant engaged in any unlawful, unfair or fraudulent business practices; that Defendant
22 engaged in any other wrongful conduct as alleged in the Lawsuit; or that Employees were
23 harmed by the conduct alleged in the Lawsuit; or that Employees were harmed by the conduct
24 alleged in the Lawsuit. Neither this Settlement Agreement, nor any document referred to or
25 contemplated herein, nor any action taken to carry out this Settlement Agreement, is, may be
26 construed as, or may be used as an admission, concession or indication by or against Defendant
27 of any fault, wrongdoing, or liability whatsoever.
28

1 **G.** Plaintiffs claim and continue to claim that the claims released by this Settlement
2 Agreement have merit and give rise to liability on the part of Defendant. Neither this Settlement
3 Agreement nor any documents referred to herein, or any action taken to carry out this Settlement
4 Agreement is or may be construed as or may be used as an admission by or against Employees or
5 Class Counsel as to class suitability and/or the merits or lack thereof of the claims asserted.

6 **I.** The Parties stipulate, subject to the approval of the Court, that the Lawsuit is
7 being compromised and settled pursuant to the terms and conditions set forth in this Settlement
8 Agreement.

9 **III. SETTLEMENT TERMS**

10 **A. Cooperation.** The Parties will cooperate in obtaining through an unopposed
11 motion to be filed as soon as possible, an order from the Court preliminarily approving this
12 Settlement. The Parties further agree to fully cooperate in the drafting and/or filing of any
13 further documents or filings reasonably necessary to be prepared or filed, shall take all steps that
14 may be requested by the Court relating to, or that are otherwise necessary to the approval and
15 implementation of this Settlement Agreement and shall otherwise use their respective best efforts
16 to obtain the Court’s certification of the Class for purposes of this Settlement, as well as Court
17 approval of and implementation of this Settlement Agreement.

18 **B. Funding and Allocation of Settlement**

19 1. Settlement Accounting. No more than ten (10) days after the Effective
20 Date, or reasonable time thereafter, the Settlement Administrator will provide the Parties with an
21 accounting of all anticipated payments to be issued from the Qualified Settlement Account,
22 including: (a) Class Member Payments to Settlement Class Members, (b) the PAGA Amount
23 (separated as payments to the LWDA and the Individual PAGA Payments to PAGA Settlement
24 Members); (c) the Plaintiffs Enhancement Payment; (d) the Class Counsel Fees Award and Class
25 Counsel Costs Award to Class Counsel, and (e) Settlement Administration Costs to the
26 Settlement Administrator, all as specified in this Settlement Agreement and approved by the
27 Court (“Settlement Accounting”).
28

1 2. Funding the Settlement. Within twenty-one (21) days after receipt of the
2 Settlement Accounting from the Settlement Administrator, and solely for purposes of this
3 Settlement, Defendant shall wire the Gross Settlement Amount, and all associated employer
4 payroll taxes into the Qualified Settlement Account, for distribution in accordance with the terms
5 of this Settlement Agreement (the “Funding”). At no time shall Defendant have the obligation to
6 segregate the funds comprising the Gross Settlement Amount from other assets and will retain
7 exclusive authority over, and responsibility for, those funds until the Funding.

8 **C. Payments from the Gross Settlement Amount.**

9 1. Plaintiffs Enhancement Payment. The Settlement Administrator shall pay
10 from the Qualified Settlement Account the Plaintiffs Enhancement Payment within fourteen (14)
11 days of the Funding by check or wire to an account designated by Class Counsel. Plaintiffs
12 agree to provide the Settlement Administrator (and not Defendant) with an executed IRS Form
13 W-9 within five (5) days after the Funding and before the Plaintiffs Enhancement Payments are
14 issued. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs for this
15 payment. Plaintiffs shall be solely and legally responsible for paying any and all applicable taxes
16 on the Plaintiffs Enhancement Payment and shall indemnify, defend, and hold Defendant
17 harmless from any claim or liability for taxes, penalties, or interest arising as a result of the
18 Plaintiffs Enhancement Payment. The Plaintiffs Enhancement Payment shall be in addition to
19 any Class Member Payments or Individual PAGA Payments that Plaintiffs receive as a
20 Settlement Class Member and/or PAGA Settlement Member. If the Court awards the Plaintiffs
21 Enhancement Payment in less than the amount agreed upon in this Settlement Agreement, the
22 unawarded amount shall remain in the Class Payout Fund and be distributed to Settlement Class
23 Members.

24 2. Class Counsel’s Attorneys’ Fees and Costs. Class Counsel will request a
25 Class Counsel Fees Award of up to thirty-five percent (35%) of the Gross Settlement Amount,
26 projected to be Two Hundred Fifty-Three Thousand Fifty Dollars (\$253,050.00.00), and will
27 seek a Class Counsel Costs Award for reimbursement of Class Counsel’s actual out-of-pocket
28 costs and expenses incurred pursuing the Lawsuit, not to exceed Sixteen Thousand Dollars

1 (\$16,000). Class Counsel shall submit a declaration to the Court detailing the costs incurred
2 and/or expected to be incurred in the Lawsuit. Class Counsel shall be solely responsible for the
3 division and distribution of any and all court-approved Class Counsel Fees Award and Class
4 Counsel Costs Award.

5 a. The Settlement Administrator shall pay to Class Counsel any Class
6 Counsel Fees Award or Class Counsel Costs Award within fourteen (14) days of the Funding,
7 either by check or by wire to an account designated by Class Counsel. Class Counsel agrees to
8 provide the Settlement Administrator (and not Defendant) with executed IRS Forms W-9 within
9 five (5) business days after the Funding Date and before payments of the Class Counsel Fees
10 Award and Costs Award are issued. The Settlement Administrator shall issue IRS Forms 1099
11 to Class Counsel for the payments made pursuant to this section. Class Counsel shall be solely
12 and legally responsible for paying any and all applicable taxes on the respective portion of the
13 Class Counsel Fees Award and Class Counsel Costs Award and shall indemnify, defend, and
14 hold Defendant harmless from any claim or liability for taxes, penalties or interest arising as a
15 result of any payments received by Class Counsel pursuant to this Settlement Agreement. If the
16 Court awards a Class Counsel Fees Award and/or a Class Counsel Costs Award in an amount
17 that is less than the amount provided under this Settlement, the unawarded amounts shall remain
18 in the Class Payout Fund and be distributed to Settlement Class Members. This Settlement is not
19 contingent upon the Court awarding Class Counsel any particular amount of Class Counsel Fees
20 Award or Class Counsel Costs Award.

21 b. Neither Class Counsel nor any other current or past counsel for
22 Plaintiffs shall be permitted to petition the Court for, or accept, any additional payments for fees,
23 costs, or interest, and the Class Counsel Fees Award and Class Counsel Costs Award approved
24 by the Court contemplated by this Settlement Agreement shall be for all claims for attorneys'
25 fees and costs whenever incurred, including past and present fees and costs incurred in the
26 Lawsuit to date and through and including the Effective Date, as well as final distribution of all
27 payments under this Settlement Agreement and through and after final judgment. The Funding
28 shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney or

1 law firm for attorneys' fees, expenses or costs in the Lawsuit incurred by any attorney on behalf
2 of Plaintiffs and/or any of the Employees, and shall relieve Defendant and Defendant's Counsel
3 of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses
4 and/or costs to which any of them may claim to be entitled on behalf of Plaintiffs and/or the
5 Employees in connection with the claims released in this Settlement. Further, payment of the
6 Class Counsel Fees Award and Class Counsel Costs Award to Class Counsel as set forth herein
7 shall relieve the Employees, the Settlement Administrator, and the Qualified Settlement Account
8 of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses
9 and/or costs to which any of them may claim to be entitled on behalf of Plaintiffs and/or the
10 Employees in connection with the claims released in this Settlement.

11 3. PAGA Amount. The PAGA Amount is Forty Thousand Dollars
12 (\$40,000.00), which the Parties have agreed is to be paid in settlement of all PAGA claims
13 released in this Settlement Agreement, which shall be allocated as follows:

14 a. Within fourteen (14) days of the Funding, the Settlement
15 Administrator shall pay from the Qualified Settlement Account Thirty Thousand Dollars
16 (\$30,000.00) to the LWDA ("LWDA Payment"). This amount is seventy-five percent (75%) of
17 the Forty Thousand Dollars (\$40,000.00) PAGA Amount.

18 b. The remaining twenty-five percent (25%) of the PAGA Amount,
19 Ten Thousand Dollars (\$10,000.00), shall be distributed to all PAGA Settlement Members, with
20 each receiving a *pro rata* share based on the number of Pay Periods worked during the PAGA
21 Period. To establish the Pay Period Value (as defined below), the Settlement Administrator will
22 first determine the total number of Pay Periods worked by the PAGA Settlement Members
23 during the PAGA Period. The "Pay Period Value" means 25% of the PAGA Amount divided by
24 the total number of Pay Periods worked by PAGA Settlement Members during the PAGA
25 Period. The Pay Period Value will be rounded to the nearest cent. The amount of the Individual
26 PAGA Payment to be paid to each PAGA Settlement Member will be determined by multiplying
27 the Pay Period Value by the total number of Pay Periods each PAGA Settlement Member
28

1 worked during the PAGA Period. There is no need for a PAGA Settlement Member to submit a
2 claim form in order to be eligible for and to receive an Individual PAGA Payment.

3 c. The portion of the PAGA Amount paid to the PAGA Settlement
4 Members shall be treated entirely as penalties. If for any reason additional funds are allocated to
5 the PAGA Amount, such monies shall be drawn from other amounts in this Settlement with the
6 other components of the Gross Settlement Amount being reduced proportionately, excluding the
7 Class Counsel Fees Award and the Class Payout Fund, but the Gross Settlement Amount will not
8 exceed Seven Hundred Twenty-Three Thousand Dollars (\$723,000.00).

9 4. Settlement Administration Costs. The Settlement Administrator shall pay
10 from the Qualified Settlement Account the Court-approved Settlement Administration Costs,
11 within fourteen (14) days of the Funding, in an amount not to exceed Twenty-Two Thousand
12 Five Hundred Dollars (\$22,500.00).

13 5. Calculation of Class Member Payments. All Settlement Class Members
14 will receive a Class Member Payment, paid from the Class Payout Fund. The amount of each
15 Class Member Payment will be calculated on a *pro rata* basis, based on the number of
16 Workweeks each Settlement Class Member worked during the Class Period. To establish the
17 Workweek Value (as defined below), the Settlement Administrator will first determine the total
18 number of Workweeks worked by the Settlement Class Members during the Class Period. The
19 “Workweek Value” means the Class Payout Fund divided by the total number of Workweeks
20 worked by Settlement Class Members during the Class Period. The Workweek Value will be
21 rounded to the nearest cent. The Class Member Payment to each Settlement Class Member will
22 be determined by multiplying the Workweek Value by the total number of Workweeks each
23 Settlement Class Member worked during the Class Period. The total of all Class Member
24 Payments to all Settlement Class Members shall equal the Class Payout Fund. There is no need
25 for a Settlement Class Member to submit a claim form in order to be eligible for and to receive a
26 Class Member Payment. Class Member Payments will be reduced by any required deductions
27 for each Settlement Class Member, including employee-side tax withholdings and/or deductions.
28

1 6. Method and Timing of Payments to Settlement Class Members and PAGA
2 Settlement Members.

3 a. Class Member Payments and the Individual PAGA Payments will
4 be mailed to the Employees' last known address contained in the Employee List (subject to
5 address update by skip-trace search conducted prior to the mailing of the Class Notice, and any
6 other address update that occurs thereafter), by First Class U.S. Mail within fourteen (14)
7 calendar days following the Funding Date.

8 b. Checks paid to Settlement Class Members and PAGA Settlement
9 Members shall remain valid and negotiable for one-hundred eighty (180) calendar days from the
10 date of their issuance. After one-hundred eighty (180) calendar days from the date of mailing,
11 the uncashed checks, plus any accrued interest that has not been distributed pursuant to the Order
12 of this Court, shall be voided by the Settlement Administrator and the Settlement Administrator
13 will take all steps necessary to ensure that the proceeds from the uncashed check(s), including
14 unpaid cash residue(s), or other unclaimed or abandoned fund(s), shall be distributed by the
15 Settlement Administrator to the California State Controller's Office Unclaimed Property Fund in
16 the name of the Settlement Class Member and/or PAGA Settlement Member.

17 7. No Effect on Employee Benefits. The Plaintiffs Enhancement Award,
18 Class Member Payments, and Individual PAGA Payments paid to Plaintiffs, Settlement Class
19 Members, and PAGA Settlement Members shall be deemed not to be pensionable earnings and
20 shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g.,
21 vacations, holiday pay, retirement plans, etc.) of the respective Plaintiffs, Employees, or
22 Settlement Class Members. The Parties agree that any Plaintiffs Enhancement Award, Class
23 Member Payments, and Individual PAGA Payments paid to Plaintiffs, Settlement Class
24 Members, and PAGA Settlement Members under the terms of this Settlement Agreement do not
25 represent any modification of Plaintiffs', Settlement Class Members', or PAGA Settlement
26 Members' previously credited hours of service or other eligibility criteria under any employee
27 pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any
28 Plaintiffs Enhancement Award, Class Member Payments, or Individual PAGA Payments shall

not be considered “compensation” in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

D. Taxation

1. Tax Treatment of Class Member Payments. Each Class Member Payment shall be allocated between taxable and non-taxable consideration as follows: Twenty-Five Percent (25%) will be allocated to alleged unpaid wages (subject to employer-side taxes paid separately by Defendant) for which an IRS Form W-2 will issue, and Seventy-Five Percent (75%) will be allocated to alleged penalties, reimbursement, and interest for which an IRS Form 1099 will issue, if required by law. The Settlement Administrator will be responsible for calculating the employee-side taxes owed on the wage portion of each Class Member Payment and paying these amounts to the appropriate state and federal agencies, within the timing required by applicable state and federal law. Each Settlement Class Member shall be responsible for paying any employee-side taxes due on his or her settlement. The Settlement Administrator will also be responsible for calculating the employer’s share of withholdings and taxes, including without limitation statutory Federal and California payroll and employment taxes arising from wage payments to Settlement Class Members under this Settlement Agreement. Defendant and Southwest shall be separately responsible for paying any employer-side taxes for their respective employees in addition to the Class Payout Fund. Notwithstanding the treatment of the Class Payout Fund, none of the payments called for by this Settlement Agreement are to be treated as earnings or wages for any purpose under any of Defendant’s or Southwest’s benefit plans.

2. Tax Treatment of PAGA Payments. The Individual PAGA Payment distributed to each PAGA Settlement Member will be treated entirely as civil penalties, and will be reported as such to each PAGA Settlement Member on an IRS Form 1099 (if required).

3. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Parties, Settlement Class Members, and PAGA Settlement Members are not relying on any statement, representation, or calculation by any of the Parties or by the Settlement Administrator in this regard. Plaintiff, Settlement

1 Class Members, and PAGA Settlement Members understand and agree that except for the
2 employer's portion of any payroll taxes, Plaintiff, Settlement Class Members, and PAGA
3 Settlement Members will be solely responsible for all tax reporting obligations and agree to pay
4 all local, state and federal income taxes, penalties, interest, fines or other assessments incurred or
5 owed, if any, in connection with the payments described herein. Plaintiff, Settlement Class
6 Members, and PAGA Settlement Members agree to indemnify and hold Defendant, the Released
7 Parties, Defendant's Counsel, Class Counsel, and the Settlement Administrator free and harmless
8 from and against any liabilities, assessment of taxes, penalties, interests, fines, costs and
9 expenses, including attorneys' fees, arising out of their failure to pay taxes due on payments
10 received as a result of this Settlement Agreement. Each Party to this Settlement Agreement (for
11 purposes of this section, the "acknowledging party" and each party to this agreement other than
12 the acknowledging party, an "other party") acknowledges and agrees that (1) no provision of this
13 Settlement Agreement, and no written communication or disclosure between or among the
14 Parties or their attorneys and other advisers, is or was intended to be, nor shall any such
15 communication or disclosure constitute or be construed or be relied upon as, tax advice within
16 the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as
17 amended); (2) the acknowledging party (a) has relied exclusively upon their own, independent
18 legal counsel for advice in connection with this Settlement Agreement, (b) has not entered into
19 this Settlement Agreement based upon the recommendation of any other Party or any attorney or
20 advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure
21 by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed on the
22 acknowledging party; and (3) no attorney or adviser to any other Party has imposed any
23 limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
24 (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging
25 party of the tax treatment or tax structure of any transaction, including any transaction
26 contemplated by this Settlement Agreement.
27
28

1 **E. Conditional Certification**

2 For the purposes of this Settlement Agreement only, the Parties agree to the certification
3 of the Settlement Class. If, for any reason, the Settlement Agreement is not approved, this
4 stipulation to certification will be void. Should the Settlement Agreement not become final, for
5 whatever reason, the fact that the Parties were willing to stipulate to class certification as part of
6 the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue
7 of whether a class should be certified in a non-settlement context in the Lawsuit, and shall have
8 no bearing on, and shall not be admissible in connection with, the issue of whether a class should
9 be certified in any other lawsuit.

10 **F. No Injunctive Relief**

11 As part of this Settlement, Defendant shall not be required to enter into any consent
12 decree, nor shall Defendant be required to agree to any provision for injunctive relief, or to
13 modify or eliminate any of its personnel, compensation, or payroll practices or policies, or adopt
14 any new personnel, compensation, or payroll practices or policies.

15 **G. Release of Claims**

16 1. Class Member Release. As of the date Defendant funds the Gross
17 Settlement Amount, all Settlement Class Members who do not properly opt-out of the Settlement
18 will fully and finally release Defendant and Southwest, and each of their past, present and future
19 agents, employees, servants, officers, directors managing agents, members, owners (whether
20 direct or indirect), partners, trustees, representatives, shareholders, stockholders, attorneys,
21 parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships,
22 divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint
23 employers, potential and alleged joint employers, temporary staffing agencies, common law
24 employers, potential and alleged common law employers, dual employers, potential and alleged
25 dual employers, co-employers, potential and alleged co-employers, contractors, affiliates, service
26 providers, alter-egos, potential and alleged alter-egos, vendors, affiliated organizations, any
27 person and/or entity with potential or alleged to have joint liability, and all of their respective
28 past, present and future employees, directors, officers, members, owners, agents, representatives,

1 payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service
2 providers, and assigns (collectively, the “Released Parties”) from any and all Class Released
3 Claims (defined below) that arose during the Class Period. The “Class Released Claims” include
4 all claims asserted in the Lawsuit, as amended, and/or arising from or related to the facts and
5 claims alleged in the Lawsuit, as amended. The Class Released Claims include all claims for
6 unpaid wages, including, but not limited to, failure to pay minimum wages, straight time
7 compensation, overtime compensation, double-time compensation, and interest; the calculation
8 of the regular rate of pay; missed/short/late/interrupted meal period, rest period, and/or recovery
9 period wages/premiums; failure to provide meal periods; failure to authorize and permit rest
10 periods and/or recovery periods; the calculation and payment of meal period, rest period, and/or
11 recovery period premiums; payment for all hours worked, including off-the-clock work; wage
12 statements; deductions; failure to reimburse business expenses; failure to pay wages timely
13 during employment; failure to pay all wages due upon separation; unfair business practices;
14 penalties, including, but not limited to, recordkeeping penalties, wage statement penalties,
15 minimum-wage penalties, and waiting-time penalties; and attorneys’ fees and costs. The Class
16 Released Claims include all claims arising under the California Labor Code (including, but not
17 limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218,
18 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 256, 510, 511, 512, 516, 550,
19 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*,
20 2699 *et seq.*, 2800, and 2802); the Wage Orders of the California Industrial Welfare
21 Commission; the California Private Attorneys General Act of 2004 (“PAGA”); California
22 Business and Professions Code section 17200, *et seq.*; the Fair Labor Standards Act (“FLSA”),
23 29 U.S.C. § 201 *et seq.*; and federal common law. This release excludes the release of claims not
24 permitted by law.

25 2. Release by PAGA Settlement Members. All PAGA Settlement Members,
26 including those who timely and effectively exclude themselves from the Settlement Class, shall
27 nevertheless be bound by the Released PAGA Claims (defined below) and shall receive a *pro*
28 *rata* portion of 25% of the PAGA penalties. All PAGA Settlement Members, on behalf of

1 themselves and their respective former and present representatives, agents, attorneys, heirs,
2 administrators, successors, assigns, and the LWDA, shall release Defendant and staffing
3 agencies Southwest Staffing (“Southwest”) and Randstad USA (“Randstad”) (collectively, the
4 “Agencies”), and each of their past, present and future agents, employees, servants, officers,
5 directors managing agents, members, owners (whether direct or indirect), partners, trustees,
6 representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors,
7 related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors,
8 insurers, consultants, joint venturers, joint employers, potential and alleged joint employers,
9 temporary staffing agencies, common law employers, potential and alleged common law
10 employers, dual employers, potential and alleged dual employers, co-employers, potential and
11 alleged co-employers, contractors, affiliates, service providers, alter-egos, potential and alleged
12 alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to
13 have joint liability, and all of their respective past, present and future employees, directors,
14 officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders,
15 fiduciaries, parents, subsidiaries, other service providers, and assigns (collectively, the “PAGA
16 Released Parties”) from all known and unknown claims for civil penalties under PAGA that were
17 alleged, or could have been alleged, in the Lawsuit, based on the allegations asserted in the
18 Lawsuit, as amended, and/or in the PAGA Notice, including but not limited to, claims relating to
19 failure to pay minimum wages, straight time compensation, overtime compensation, double-time
20 compensation, and interest; the calculation of the regular rate of pay;
21 missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums;
22 failure to provide meal periods; failure to authorize and permit rest periods and/or recovery
23 periods; the calculation and payment of meal period, rest period, and/or recovery period
24 premiums; payment for all hours worked, including off-the-clock work; wage statements;
25 deductions; failure to reimburse business expenses; failure to pay wages timely during
26 employment; failure to pay all wages due upon separation; unfair business practices; penalties,
27 including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage
28 penalties, and waiting-time penalties; and attorneys’ fees and costs; and alleged violations of

1 Labor Code sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218,
2 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 256, 510, 511, 512, 516, 550,
3 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*,
4 2699 *et seq.*, 2800, and 2802 (“Released PAGA Claims”). PAGA Settlement Members’
5 Released PAGA Claims are limited to the PAGA Period.

6 3. General Release By Plaintiffs Only. As of the Effective Date, in addition
7 to releasing the Settlement Released Claims and the PAGA Released Claims, Plaintiffs, in their
8 individual capacity, fully and finally release Defendant and Southwest Staffing (“Southwest”),
9 and each of their past, present and future agents, employees, servants, officers, directors,
10 managing agents, members, owners (whether direct or indirect), partners, trustees,
11 representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors,
12 related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors,
13 insurers, consultants, joint venturers, joint employers, potential and alleged joint employers,
14 temporary staffing agencies, common law employers, potential and alleged common law
15 employers, dual employers, potential and alleged dual employers, co-employers, potential and
16 alleged co-employers, contractors, affiliates, service providers, alter-egos, potential and alleged
17 alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to
18 have joint liability, and all of their respective past, present and future employees, directors,
19 officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders,
20 fiduciaries, parents, subsidiaries, other service providers, and assigns (collectively, the
21 “Plaintiffs’ Released Parties”), from any and all claims, known and unknown, under federal,
22 state and/or local law, statute, ordinance, regulation, common law, or other source of law,
23 including but not limited to claims arising from or related to their employment with
24 Defendant/Southwest and their compensation while an employee of Defendant/Southwest
25 (“Plaintiffs’ Released Claims”). Plaintiffs’ Released Claims include, but are not limited to, all
26 claims asserted in the Lawsuit, as amended, and/or arising from or related to the Lawsuit, as
27 amended, or the PAGA Notice. Plaintiffs’ Released Claims include all claims for unpaid wages,
28 including, but not limited to, failure to pay minimum wages, straight time compensation,

overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation and payment of meal period, rest period, and/or recovery period premiums; payment for all hours worked, including off-the-clock work; wage statements; deductions; failure to reimburse business expenses; failure to pay wages timely during employment; failure to pay all wages due upon separation; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs. Plaintiffs' Released Claims include all claims arising under the California Labor Code (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 256, 510, 511, 512, 516, 550, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*, 2699 *et seq.*, 2800, and 2802); all claims arising under: the Wage Orders of the California Industrial Welfare Commission; PAGA; the California Business and Professions Code section 17200, *et seq.*; the California Civil Code, to include but not limited to, sections 3287, 3336 and 3294; 12 CCR § 11040; 8 CCR § 11060; California Code of Civil Procedure § 1021.5; the California common law of contract; the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* (ERISA). Plaintiffs' Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act; and the law of contract and tort. Plaintiffs' Released Claims also include all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or

1 regulation arising out of, relating to, or in connection with any act or omission by or on the part
2 of any of the Plaintiffs' Released Parties committed or omitted prior to the execution hereof,
3 asserted or that could have been asserted based upon the facts pleaded in the Lawsuit, as well as
4 any claims relating to his employment with and/or separation from any of the Plaintiffs'
5 Released Parties that may arise under federal, state, or local wage and hour laws, ordinances, or
6 regulations. This release excludes the release of claims not permitted by law.

7 a. Plaintiffs' Released Claims include all claims, whether known or
8 unknown. Even if Plaintiffs discover facts in addition to or different from those that he now
9 knows or believes to be true with respect to the subject matter of Plaintiffs' Released Claims,
10 those claims will remain released and forever barred. Thus, Plaintiffs expressly waive and
11 relinquishes the provisions, rights and benefits of section 1542 of the California Civil Code,
12 which reads:

13 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
14 **THAT THE CREDITOR OR RELEASING PARTY DOES**
15 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
16 **FAVOR AT THE TIME OF EXECUTING THE RELEASE**
17 **AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
18 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
19 **WITH THE DEBTOR OR RELEASED PARTY.**

20 b. Notwithstanding the foregoing, Plaintiffs do not waive or release
21 any claim which cannot be waived or released by private agreement. Further, nothing in this
22 Settlement Agreement shall prevent Plaintiffs from filing a charge or complaint with, or from
23 participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, CRD,
24 NLRB or any other federal, state or local agency charged with the enforcement of any
25 employment or other applicable laws. Plaintiffs, however, understand that by signing this
26 Settlement Agreement, he waives the right to recover any damages or to receive other relief in
27 any claim or suit brought by or through the EEOC, the CRD or any other state or local deferral
28 agency on his behalf to the fullest extent permitted by law, but expressly excluding any monetary
award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower
award, or other awards or relief that may not lawfully be waived.

1 4. Release of ADEA Claims. The general release of claims by Plaintiffs in
2 Section III.G.3 of this Settlement Agreement includes a release of any claim Plaintiffs may have
3 under the federal Older Workers Benefit Protection Act (“OWBPA”) and/or the federal Age
4 Discrimination In Employment Act of 1967 (“ADEA”). By signing this Settlement Agreement,
5 Plaintiffs acknowledges that:

6 a. Plaintiffs have had a full twenty-one (21) days within which to
7 consider Section III.G.3 of this Settlement Agreement before executing it or have freely and
8 knowingly waived the right to consider Section III. G.3 of this Settlement Agreement for a full
9 twenty-one (21) days by executing the Settlement Agreement before the expiration of the
10 twenty-one (21)-day period;

11 b. Plaintiffs and Defendant agree that any changes, whether material
12 or immaterial, to Section III. G.3 of this Settlement Agreement, do not restart the running of the
13 twenty-one (21)-day period;

14 c. Plaintiffs have carefully read and fully understands all provisions
15 of Section III. G.3 of this Settlement Agreement;

16 d. Plaintiffs knowingly and voluntarily agree to all of the terms set
17 forth in Section III. G.3 of this Settlement Agreement and agree to be legally bound by all of the
18 terms set forth in Section III.G.3 of this Settlement Agreement;

19 e. Plaintiffs have been and hereby are advised in writing to consider
20 the terms of Section III. G.3 of this Settlement Agreement and to consult with an attorney;

21 f. Prior to signing this Settlement Agreement, Plaintiffs have had the
22 opportunity to consult with counsel of their choice concerning the terms and conditions of
23 section III. G.3 of this Settlement Agreement and have done so or freely chosen not to do so;

24 g. Plaintiffs have a full seven (7) days following the execution of this
25 Settlement Agreement to revoke Section III. G.3 of this Settlement Agreement. To revoke, they
26 must deliver a written statement of revocation to Adam Rosenthal or Robert Foster at
27 arosenthal@shppardmullin.com or rfoster@sheppardmullin.com, respectively, or at 12275 El
28 Camino Real, Suite 100, San Diego, CA 92130 no later than midnight on the seventh (7th) day

1 after they signed this Settlement Agreement. If either Plaintiff revokes within seven (7) days,
2 she will not be entitled to the Plaintiffs Enhancement Payment, and Section III.G.3 of this
3 Settlement Agreement shall be null and void as to Plaintiffs only. If Plaintiffs do not exercise his
4 right to revoke Section III.G.3 of this Settlement Agreement, then this Settlement Agreement
5 shall become effective on the date immediately following the seven-day (7) revocation period
6 described above; and

7 h. Plaintiffs expressly understand that among the various rights and
8 claims being waived by Section III.G.3 of this Settlement Agreement are those arising under the
9 ADEA, but that any such claims that arise after the date of this Settlement Agreement are not
10 waived. Although Plaintiffs are releasing claims that he may have under the OWBPA and
11 ADEA, Plaintiffs understand that they may challenge the knowing and voluntary nature of their
12 release in Section III.G.3 of this Settlement Agreement before a court, the Equal Employment
13 Opportunity Commission (EEOC), NLRB, or any other federal, state or local agency charged
14 with the enforcement of such employment laws.

15 **B. Settlement Administrator Responsibilities**

16 1. The Settlement Administrator shall be responsible for preparing, printing,
17 and mailing to the Employees the Notice of Proposed Settlement of Class Action attached as
18 **Exhibit 1** hereto (the “Class Notice”) and the accompany forms attached as Exhibits 2-3 in
19 English and Spanish; calculating Class Member Payments and Individual PAGA Payments;
20 calculating and withholding all required state and federal taxes owed by the Settlement Class
21 Members, PAGA Settlement Members, and Defendant and Southwest; keeping track of opt-outs
22 and objections; drafting and mailing checks to Settlement Class Members and PAGA Settlement
23 Members; distributing the Plaintiffs Enhancement Payment, Class Counsel Fees Award, Class
24 Counsel Costs Award, LWDA Payment, and Settlement Administration Costs; providing weekly
25 status reports to counsel for the Parties; providing a due diligence declaration for submission to
26 the Court prior to the Final Approval hearing; and for such other tasks as the Parties mutually
27 agree or the Court orders the Settlement Administrator to perform. The Parties each represent
28

1 they do not have any financial interest in the Settlement Administrator or otherwise have a
2 relationship with the Settlement Administrator that could create a conflict of interest.

3 2. The Settlement Administrator shall determine, with input and assistance
4 from Defendant's Counsel, the eligibility for, and the amounts of, Class Member Payments and
5 Individual PAGA Payments.

6 3. To the extent any tax returns must be filed for the Gross Settlement
7 Amount pursuant to this Settlement Agreement, the Settlement Administrator shall cause to be
8 timely and properly filed all informational and other tax returns, if any, necessary with respect to
9 the Gross Settlement Amount. Such returns shall be consistent with this paragraph. Any
10 expenses and/or costs incurred in connection with the operation and implementation of this
11 paragraph (including, without limitation, reasonable expenses of tax attorneys, accountants or
12 other designees retained by the Settlement Administrator as required for the preparation and
13 filing of tax returns described in this paragraph) shall be treated as, and considered to be, a cost
14 of administration of the Settlement and shall be paid from the Settlement Administration Costs.

15 4. No person shall have any claim against Defendant, Defendant's Counsel,
16 Plaintiff, Class Counsel or the Settlement Administrator based on distributions and payments
17 made in accordance with this Settlement Agreement.

18 **C. Notice/Approval of Settlement and Settlement Implementation.** As part of
19 this Settlement, the Parties agree to the following procedures for obtaining preliminary approval
20 of the Settlement, notifying Employees, obtaining final Court approval of the Settlement, and
21 processing the settlement payments:

22 1. Preliminary Approval of Settlement

23 a. Plaintiffs shall reserve a hearing with the Court for a motion for
24 preliminary approval of the Settlement in the Lawsuit within fifteen (15) days of the execution of
25 this Settlement Agreement, and shall file the motion no later than sixteen (16) court days prior to
26 the reserved hearing. Plaintiffs shall schedule the motion for hearing on the earliest date the
27 Court has available that complies with notice requirements. Plaintiffs shall seek the entry of a
28 Preliminary Approval Order for: (a) conditional certification of the Settlement Class for

1 settlement purposes only; (b) Preliminary Approval of the proposed Settlement Agreement; and
2 (c) setting a date for a Final Approval hearing.

3 b. In conjunction with the Preliminary Approval hearing, Plaintiffs
4 will submit this Settlement Agreement, which sets forth the terms of this Settlement, and will
5 include proposed forms of all notices and other documents as attached hereto necessary to
6 implement the Settlement. Simultaneous with the filing of the Settlement Agreement and solely
7 for purposes of this Settlement, Plaintiffs will request the Court to enter the Preliminary
8 Approval order (“Preliminary Approval Order” or “Order”) (in a form to be agreed upon by the
9 Parties), preliminarily approving the Settlement, and setting a hearing date to determine final
10 approval of the Settlement. The Order shall provide for notice of the Settlement and related
11 matters to be sent to Employees as specified herein. Class Counsel will be responsible for
12 drafting all documents necessary to obtain Preliminary Approval, subject to review and comment
13 by Defendant’s counsel who shall be provided a minimum of five (5) calendar days advance
14 notice to review.

15 2. LWDA Notice. Pursuant to the PAGA, concurrently with the filing of the
16 motion for Preliminary Approval, Plaintiff Marcela Gomez will, pursuant to California Labor
17 Code section 2699(*I*), submit the Settlement to the LWDA. The Parties intend and believe that
18 the submission pursuant to the procedures described in this section complies with the
19 requirements of the PAGA.

20 3. Notice to Class Members and PAGA Settlement Members.

21 a. Delivery of the Employee List. Within thirty (30) days of entry of
22 the preliminary approval order of this Settlement, Defendant and the Agencies will provide the
23 Employee List to the Settlement Administrator, which shall be used solely for the administration
24 of this Settlement and for no other purpose, and shall not be shared with Plaintiff, Class Counsel,
25 or any persons or entity not employed by the Settlement Administrator and working on the
26 administration of this Settlement. Because Employees’ sensitive personal information is
27 included in the Employee List, the Settlement Administrator shall maintain the Employee List
28 securely and in confidence. Access to such Employee List shall be limited to employees of the

1 Settlement Administrator with a need to use the Employee List for administration of the
2 Settlement. In the event that the Settlement Agreement is not finally approved by the Court, or if
3 it is in any way altered or disapproved on appeal, the Settlement Administrator shall not
4 thereafter use the Employee List, and shall destroy any and all copies or versions of it (including
5 any in electronic form).

6 b. Notice By First-Class Mail. Within fifteen (15) days after receipt
7 of the Employee List, the Settlement Administrator shall mail the Class Notice to Employees via
8 first-class regular U.S. mail. Employees will have forty-five (45) days from the mailing of the
9 Class Notice to request exclusion of or object to the Settlement (“Opt Out/Objection Period”),
10 unless the Court requires a different period, in which case the Court-sanctioned period shall
11 apply. Prior to mailing, the Settlement Administrator will perform a skip-trace search to update
12 and correct for any known or identifiable address changes. If a new address is obtained by way
13 of a returned Class Notice, the Settlement Administrator shall promptly forward the original
14 Class Notice to the updated address via first-class regular U.S. mail indicating on the original
15 Class Notice the date of such re-mailing.

16 c. Class Notice Dispute Process. Employees will have an opportunity
17 to dispute the number of Workweeks and/or Pay Periods to which they have been credited
18 (which are used to calculate the amount of their Class Member Payment and Individual PAGA
19 Payment). A dispute must: reference “*Gomez v. Producers Meat and Provision, Inc.*, Case No.
20 CVRI2205219”; contain a statement in substance explaining that the Employee disputes the
21 number of Workweeks and/or Pay Periods credited and what the Employee contends should be
22 credited to the Employee; contain the full name, address, telephone number, and last four digits
23 of the Social Security number of the Employee; be signed by the Employee; and must be
24 postmarked on or before the last day of the Opt Out/Objection Period. The date of the postmark
25 on the return mailing envelope shall be the exclusive means used to determine whether a dispute
26 has been timely submitted. If the postmark is illegible then the dispute must arrive within seven
27 (7) days after the last day of the Opt Out/Objection Period to be considered timely. At the time
28 of submitting a dispute, Employees may enclose documentation showing that the Workweeks

1 and/or Pay Periods are inaccurate. Absent evidence rebutting Defendant's records, Defendant's
2 records will be presumed determinative. However, if an Employee produces evidence to the
3 contrary, the Settlement Administrator will evaluate the evidence submitted by the Employee
4 and will make the final decision as to the number of eligible Workweeks and/or Pay Periods that
5 should be applied and/or the amount of the Class Member Payment and Individual PAGA
6 Payment to which the Employees may be entitled. The Workweek and/or Pay Period dispute
7 must be submitted by mail to the Settlement Administrator at the specified address and
8 postmarked on or before the Opt Out/Objection Period. The date of the postmark will be the
9 exclusive means to determine whether a Workweek and/or Pay Period dispute has been timely
10 submitted. All such disputes are to be resolved not later than fourteen (14) calendar days after
11 the Opt Out/Objection Period has concluded.

12 d. Notice Satisfies Due Process. Compliance with the notice
13 procedures specified in this Settlement Agreement shall constitute due and sufficient notice to
14 Employees of this Settlement and shall satisfy the requirements of due process. Nothing else
15 shall be required of, or done by, the Parties, Class Counsel or Defendant's Counsel to provide
16 notice of the proposed Settlement. In the event the procedures in this Settlement Agreement are
17 followed and the intended recipient of a Notice of Settlement still does not receive the Notice of
18 Settlement, the intended recipient shall be a Settlement Class Member and will be bound by all
19 the terms of the Settlement and the Final Approval entered by the Court if the Settlement
20 becomes effective.

21 4. Objections or Exclusions.

22 a. Procedure for Objecting to the Class Settlement. The Notice shall
23 provide that Class Members who wish to object to the Class Settlement must submit to the
24 Settlement Administrator a written statement objecting to the Settlement, by mail, no later than
25 the last day of the Opt Out/Objection Period. A written objection must: reference *Gomez v.*
26 *Producers Meat and Provision, Inc.*, Case No. 37-2022-00037381-CU-OE-NC; contain a
27 statement in substance explaining that the Settlement Class member objects to the Class
28 Settlement and the reasons for objecting; contain the full name, address, telephone number, and

1 last four digits of the Social Security number of the objecting Settlement Class Member; be
2 signed by the Settlement Class Member; and be postmarked on or before the last day of the Opt
3 Out/Objection Period. The date of the postmark on the return mailing envelope shall be the
4 exclusive means used to determine whether an objection has been timely submitted. If the
5 postmark is illegible then the objection must arrive within seven (7) days after the last day of the
6 Opt Out/Objection Period to be considered timely. No PAGA Settlement Member may object,
7 opt out, or otherwise be excluded from the PAGA Settlement, as no such right exists under the
8 law. The Parties will be permitted to respond in writing to written objections prior to the Final
9 Approval hearing, and to respond orally to any and all objections at the Final Approval hearing.
10 Settlement Class Members may appear at the Final Approval hearing and present an objection to
11 the Class Settlement orally, so long as the Employee provides written notice, which may be by
12 email, to Class Counsel and the Court at no later than 10:00 a.m. two days prior to the date of the
13 Final Approval hearing of their intent to appear at the Final Approval hearing. Absent good
14 cause found by the Court, Settlement Class Members who fail to file and serve timely written
15 objections in the manner specified above shall be deemed to have waived any objections and
16 shall be foreclosed from making any objection (whether by appeal or otherwise) to the Class
17 Settlement.

18 b. Procedure for Requesting Exclusion from the Class Settlement.

19 The Class Notice shall provide that Class Members who wish to exclude themselves from the
20 Class Settlement must submit a signed, written statement requesting exclusion from the Class
21 Settlement, to the Settlement Administrator by mail, on or before the last day of the Opt
22 Out/Objection Period. The opt-out request must state in substance, words to the effect: "I wish
23 to opt out of the Class Settlement in *Gomez. v. Producers Meat and Provision, Inc.*, Case No. 37-
24 2022-00037381-CU-OE-NC. I understand that by requesting to be excluded from the Settlement
25 Class, I will not receive a Class Member Payment. I also understand that I will still receive a
26 PAGA Payment for my share of the PAGA Settlement because I cannot object or exclude myself
27 from the PAGA Settlement." Such written request for exclusion must contain the full name,
28 address, telephone number, and last four digits of the Social Security number of the Class

1 Member requesting exclusion; be signed by the Class Member; and be postmarked on or before
2 the last day of the Opt Out/Objection Period. The date of the postmark on the return mailing
3 envelope shall be the exclusive means used to determine whether a request for exclusion has
4 been timely submitted. If the postmark is illegible then the request for exclusion must arrive
5 within seven (7) calendar days after the last day of the Opt Out/Objection Period to be
6 considered timely. Any Class Member who opts out of the Class Settlement will not be entitled
7 to any recovery under the Settlement from the Class Payout Fund and will not be bound by the
8 Class Settlement or have any right to object, appeal or comment in court on the Class Settlement.
9 Class Members who fail to submit a valid and timely request for exclusion on or before the last
10 day of the Opt Out/Objection Period shall be Settlement Class Members and shall be bound by
11 the Class Settlement. No PAGA Settlement Members may object, opt out, or otherwise be
12 excluded from the PAGA Settlement, as no such right exists under the law.

13 c. No Solicitation of Objections or Exclusions. The Parties agree to
14 use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties
15 or their counsel seek to directly or indirectly solicit or otherwise encourage Class Members to
16 submit objections to the Class Settlement or requests for exclusion from the Class Settlement, or
17 appeal from the Court's Final Approval Order and Judgment.

18 5. Certification Reports by the Settlement Administrator.

19 a. The Settlement Administrator will, on a weekly basis following
20 distribution of the Class Notice and up to Final Approval, provide updates to Class Counsel and
21 Defendant's Counsel as to the number of Class Members who submitted timely and complete
22 requests for exclusions, disputes of Pay Periods and/or Workweeks, and objections. All written
23 objections shall be provided to the Parties' counsel within five (5) calendar days of receipt by the
24 Settlement Administrator. The weekly updates shall also provide updated data on the extent of
25 Class Notices that are returned undeliverable and any re-mailing efforts.

26 b. Within five (5) business days after the last day of the Opt
27 Out/Objection Period, the Settlement Administrator will prepare a declaration to be provided to
28 Class Counsel and Defendant's Counsel for filing in support of Plaintiff's motion for final

1 approval attesting to the following: (i) its mailing efforts regarding the Class Notice; (ii) its
2 receipt of any timely and complete requests for exclusion, disputes of Pay Periods and/or
3 Workweeks, and objections; (ii) its inability to deliver the Class Notice to Class Members, if
4 any; (iii) the number of Settlement Class Members; (iv) the highest and lowest estimated Class
5 Member Payment and Individual PAGA Payment, along with the estimated average Class
6 Member Payment and average Individual PAGA Payment. The Settlement Administrator will
7 also prepare and submit to Class Counsel and Defendant's Counsel for filing in support of the
8 motion for final approval any supplemental declaration as applicable.

9 6. Right of Defendant to Reject Settlement.

10 a. Option to Void Settlement. If the number of Class Members who
11 have timely submitted requests for exclusion from the Class Settlement totals more than ten
12 percent (10%) of the Class, Defendant shall have, in its sole discretion, the option to void this
13 Settlement. In order to exercise this option, Defendant must notify Class Counsel in writing
14 within fifteen (15) calendar days after the later of (1) the last day of the Opt Out/Objection
15 Period or (2) the date Defendant learns in writing from the Settlement Administrator that the
16 number of Class Members who have timely submitted requests for exclusion total in number
17 more than ten percent (10%) of the Class. If this Settlement Agreement is terminated by
18 Defendant, no portion of it shall have any force or effect and the Parties shall be left in the same
19 position as if it had never been entered into. If Defendant terminates the settlement under this
20 provision, Defendant shall be solely responsible for the third-party administration costs already
21 incurred.

22 b. Defendant represents that during the Class Period, Class Members
23 worked a total of approximately Forty-Five Thousand (45,000) Workweeks. The number of
24 Workweeks is a material fact which Plaintiffs relied upon in reaching this Settlement Agreement.
25 Within fifteen (15) days of receipt of the Employee List, the Administrator shall calculate and
26 provide to all Parties the number of Workweeks during the Class Period. If the Workweeks
27 calculated by the Administrator exceed Forty-Five Thousand (45,000) by more than fifteen
28 percent (15%), i.e., the Workweeks during the Class Period total more than Fifty-One Thousand

1 Seven Hundred Fifty (51,750) Workweeks, then Defendant will have the option to either (i) pay
2 an adjusted pro-rata Gross Settlement Amount that reflects the increased number of Workweeks
3 beyond 51,750 Workweeks, or (ii) limit the Class Period to the date that the number of
4 Workweeks exceeds 51,750.

5 c. Nullification of Settlement Agreement. In the event: (i) the Court
6 does not enter the Order specified herein; (ii) the Court does not finally approve the Settlement
7 as provided herein; (iii) the Court does not enter a final judgment as provided herein which
8 becomes final as a result of the occurrence of the Effective Date; or (iv) the Settlement does not
9 become final for any other reason, this Settlement Agreement shall be null and void and any
10 order or judgment entered by the Court in furtherance of this Settlement shall be treated as void
11 ab initio. In such a case, the Parties and any funds to be awarded under this Settlement shall be
12 returned to their respective statuses as of the date and time immediately prior to the execution of
13 this Settlement Agreement, the Class List in the possession of the Settlement Administrator shall
14 be returned to Defendant, and the Parties shall proceed in all respects as if this Settlement
15 Agreement had not been executed, except that any fees already incurred by the Settlement
16 Administrator shall be borne equally by the Parties. In the event an appeal is filed from the
17 Court's Final Approval Order and Judgment, or any other appellate review is sought prior to the
18 Effective Date, administration of the Settlement shall be stayed pending final resolution of the
19 appeal or other appellate review.

20 7. Final Approval Hearing and Entry of Final Judgment.

21 a. Upon expiration of the Opt Out/Objection Period, with the Court's
22 permission, a Final Approval hearing shall be conducted to determine Final Approval of the
23 Settlement along with the amount properly payable for (i) the Class Counsel Fees Award and
24 Class Counsel Costs Award, (ii) Plaintiffs Enhancement Payment, (iii) Settlement
25 Administrator's Costs, (iv) Class Member Payments; and (v) the Individual PAGA Payments.
26 Upon Final Approval of the Settlement by the Court at or after the Final Approval hearing, the
27 Parties shall present a proposed order granting Final Approval and judgment (in a form to be
28 agreed upon by the Parties) ("Final Approval Order and Judgment") to the Court for its approval.

1 Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval,
2 including the Final Approval Order and Judgment.

3 b. The Settlement Administrator shall keep counsel for the Parties
4 apprised of all distributions from the Qualified Settlement Account and upon completion of
5 administration of that portion of the Settlement, the Settlement Administrator shall provide
6 written certification, under penalty of perjury, of such completion to the Court and counsel for all
7 Parties.

8 c. Upon completion of administration of the Settlement, the
9 Settlement Administrator shall provide written certification, under penalty of perjury, of such
10 completion to the Court and counsel for all Parties.

11 8. Administration Costs. All of Defendant's own legal fees, costs and
12 expenses incurred in the Lawsuit shall be borne by Defendant. As set forth above, settlement
13 administration expenses will be paid from the Settlement Administration Costs. The Parties
14 agree to cooperate in the Settlement administration process and to make all reasonable efforts to
15 control and minimize the costs and expenses incurred in administration of the Settlement.

16 **II. Other Provisions**

17 **A. Dispute Resolution.** Except as otherwise set forth herein, all disputes regarding
18 compliance with this Settlement Agreement shall be resolved as follows:

19 1. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Employee, or
20 Defendant at any time believe that the other Party has breached or acted contrary to the
21 Settlement Agreement, that Party shall notify the other Party in writing of the alleged violation.

22 2. Upon receiving notice of the alleged violation or dispute, the responding
23 Party shall have ten (10) calendar days to correct the alleged violation and/or respond to the
24 initiating Party with the reasons why the party disputes all or part of the allegation.

25 3. If the response does not address the alleged violation to the initiating
26 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) calendar days to
27 resolve their differences.

28

1 4. If Class Counsel and Defendant are unable to resolve their differences
2 after twenty (20) calendar days, either Party may file an appropriate motion for enforcement with
3 the Court. The briefing of such motion should be in letter brief form and shall not exceed five
4 (5) single-spaced pages (excluding exhibits).

5 **B. Attorneys' Fees.** Reasonable attorneys' fees and costs for work done in
6 resolving a dispute under this Section may be recovered by any Party that prevails under the
7 standards set forth within the meaning of applicable law.

8 **C. Publicity.** The Parties agree that neither Plaintiffs nor Class Counsel shall issue
9 any press release or announcement of any kind related in any way to the Settlement. Plaintiffs
10 and Class Counsel agree that, prior to preliminary approval of the Settlement, they will keep the
11 terms of the Settlement confidential except for purposes of communicating with Plaintiffs only
12 and except for undertaking the necessary submissions to the LWDA that are required by the
13 PAGA statute. Plaintiffs shall be informed that the Settlement is confidential and shall be
14 advised to keep the Settlement confidential. From and after preliminary approval of the
15 Settlement, Plaintiffs and Class Counsel may comment regarding the specific terms of the
16 Settlement only: (1) as required by law; (2) as required under the terms of the Settlement; or (3)
17 as required under counsel's duties and responsibilities as Class Counsel. In all other cases,
18 Plaintiffs and Class Counsel agree to limit their statements regarding the terms of the Settlement,
19 whether oral, written or electronic (including without limitation on social media), to say the
20 Lawsuit has been resolved and that Plaintiffs and Class Counsel are satisfied with the terms of
21 the Settlement. Class Counsel shall not, at any time, advertise or mention the terms of the
22 Settlement or state that they obtained a favorable settlement referencing Defendant's names on
23 personal or firm website(s); shall not discuss the terms of the Settlement with media, the general
24 public, or issue press releases; and shall limit any statements regarding the terms of the
25 Settlement to that information that is publicly available. Nothing in this Paragraph is intended to
26 interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class
27 Counsel, including but not limited to, communicating with Employees regarding the Settlement
28 and undertaking submission to the LWDA that are required by the PAGA statute.

1 **D. Privacy of Documents and Information.** Plaintiffs and Class Counsel agree that
2 none of the documents and information provided to them by Defendant shall be used for any
3 purpose other than settlement of the Lawsuit. Within thirty (30) days of the Effective Date,
4 Plaintiffs and Class Counsel will destroy any and all of Defendant's property provided to
5 Plaintiffs, including all confidential information, documents, data, and employee information,
6 and will not retain any copies (whether in electronic or hard copy form) of any such property in
7 their possession or under their control.

8 **E. No Admission By the Released Parties.**

9 1. The Released Parties, including Defendant, deny any and all claims
10 alleged in the Lawsuit and deny any and all wrongdoing whatsoever. This Settlement
11 Agreement is not a concession or admission, and shall not be used against Defendant or any of
12 the Released Parties as an admission or indication with respect to any claim of any fault,
13 concession or omission by Defendant or any of the Released Parties. Whether or not the
14 Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding
15 or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall in any
16 event be offered by either Party in evidence for any purpose adverse to the Released Parties,
17 including, but not limited to, evidence of a presumption, concession, indication or admission by
18 any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage;
19 or disclosed, referred to, or offered in evidence against any of the Released Parties, in any further
20 proceeding in the Lawsuit, or any other civil, criminal or administrative action or proceeding,
21 except for purposes of settling the Lawsuit pursuant to this Settlement Agreement.

22 2. The Released Parties, including Defendant, shall have the right to use this
23 Settlement, including the releases set forth above, to defend against any claims asserted by or on
24 behalf of Employees or the LWDA, that are encompassed within the releases, whether such
25 claims are asserted in the Lawsuit or any other lawsuit.

26 **F. Exhibits and Headings.** Any Exhibits to this Settlement Agreement are an
27 integral part of the Settlement. The descriptive headings of any paragraphs or sections of this
28

1 Settlement Agreement are inserted for convenience of reference only and do not constitute a part
2 of this Settlement Agreement.

3 **G. Interim Stay of Proceedings.** The Parties agree to hold all proceedings in the
4 Lawsuit, except such proceedings necessary to implement and complete the Settlement, in
5 abeyance pending the Final Approval hearing to be conducted by the Court.

6 **H. Amendment or Modification.** This Settlement Agreement may be amended or
7 modified only by a written instrument signed by all Parties or their successors-in-interest.

8 **I. Entire Agreement.** This Settlement Agreement and any attached Exhibits
9 constitute the entire agreement among these Parties with respect to resolution of the Lawsuit. To
10 the extent there are any other oral or written agreements relating to the subject matter of this
11 Settlement Agreement, this Settlement Agreement controls and supersedes all such agreements.
12 No oral or written representations, warranties or inducements have been made to any Party
13 concerning this Settlement Agreement or its Exhibits other than the representations, warranties
14 and covenants contained and memorialized in this Settlement Agreement and any attached
15 Exhibits.

16 **J. Authorization to Enter Into Settlement Agreement.** Counsel for all Parties
17 warrant and represent they are expressly authorized by the Parties whom they represent and who
18 are signing this Settlement Agreement, to negotiate this Settlement Agreement and to take all
19 appropriate action required or permitted to be taken by such Parties pursuant to this Settlement
20 Agreement to effectuate its terms, and to execute any other documents required to effectuate the
21 terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other
22 and use their best efforts to effect the implementation of the Settlement.

23 **K. Binding on Successors and Assigns.** This Settlement Agreement shall be
24 binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as
25 previously defined.

26 **L. California Law Governs.** All terms of this Settlement Agreement and the
27 Exhibits hereto shall be governed by and interpreted according to the laws of the State of
28 California.

1 **M. Counterparts.** This Settlement Agreement may be executed in one or more
2 counterparts. All executed counterparts, including electronic (e.g., DocuSign), facsimile, and
3 scanned copies of the signature page, will be deemed to be one and the same instrument.

4 **N. This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
5 Settlement is a fair, adequate and reasonable settlement of the Lawsuit and have arrived at this
6 Settlement in arms-length negotiations, taking into account all relevant factors, present and
7 potential. This Settlement was reached after extensive negotiations and mediation with a well-
8 renowned class action mediator.

9 **O. Jurisdiction.** The Court shall retain jurisdiction with respect to the interpretation,
10 implementation and enforcement of the terms of this Settlement Agreement and all orders and
11 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
12 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
13 embodied in this Settlement Agreement and all orders and judgments entered in connection
14 therewith.

15 **P. Cooperation and Drafting.** The Parties agree that the terms and conditions of
16 this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between
17 the Parties. Each of the Parties has cooperated in the drafting and preparation of this Settlement
18 Agreement. Hence, in any construction made to this Settlement Agreement, the same shall not
19 be construed against any of the Parties. This Settlement shall not be construed in favor of or
20 against any Party by reason of the extent to which any Party or his/its counsel participated in the
21 drafting of this Settlement Agreement.

22 **Q. Invalidity of Any Provision.** Before declaring any provision of this Settlement
23 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
24 extent possible consistent with applicable precedents so as to define all provisions of this
25 Settlement Agreement valid and enforceable.

26 **R. Plaintiffs Shall Not Opt Out of the Settlement.** Plaintiffs agree to sign this
27 Settlement Agreement, and by signing this Settlement Agreement is bound by the terms herein,
28 including without limitation the general release set forth above subject to the occurrence of the

1 Effective Date and Defendant's full payment of all sums due hereunder. Plaintiffs shall retain
2 their rights to participate as an Employee under this Settlement Agreement, and agrees that he
3 may not opt out of the Settlement Class.

4 **S. Parties Represented by Counsel.** The Parties hereby acknowledge that they have
5 been represented in negotiations for and in the preparation of this Settlement Agreement by
6 independent counsel of their own choosing, they have read this Settlement Agreement and have
7 had it fully explained to them by such counsel, and they are fully aware of the contents of this
8 Settlement Agreement and of its legal effect.

9 **T. Voluntary Agreement.** This Settlement Agreement is executed voluntarily and
10 without duress or undue influence on the part of or on behalf of either Party, or of any other
11 person, firm, or entity. Each Party has made such investigation of the facts pertaining to this
12 Settlement Agreement and of all other matters pertaining hereto as he, she, or it deems necessary.

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LIST OF EXHIBITS

- 1. Proposed Class Notice

1 **IT IS SO AGREED:**

2 06 / 16 / 2024

3 Dated: June __, 2024

By: _____



MARCELA GOMEZ

5 Dated: June __, 2024

7 By: _____

MARIBEL PERALTA

10 PRODUCERS MEAT AND PROVISION, INC.

11 Dated: June __, 2024

13 By: _____

14 Title:

16 **APPROVED AS TO FORM ONLY:**

17 CANTOR LAW

18 Dated: June __, 2024

19 Zachary Cantor

20 Counsel for Plaintiffs

22 SHEPPARD MULLIN RICHTER &
HAMPTON LLP

24 Dated: June __, 2024

25 Adam R. Rosenthal

Robert K. Foster

26 Counsel for Defendant PRODUCERS
MEAT AND PROVISION, INC.

1 **IT IS SO AGREED:**

2
3 Dated: June ___, 2024

By: _____
MARCELA GOMEZ

4
5 06 / 13 / 2024

6 Dated: June ___, 2024

7
8 By: Maribel peralta
MARIBEL PERALTA

9
10 PRODUCERS MEAT AND PROVISION, INC.

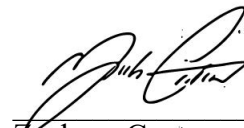
11 Dated: June ___, 2024

12
13
14 By:
15 Title:

16 **APPROVED AS TO FORM ONLY:**

17 CANTOR LAW

18
19 Dated: June 16, 2024

20 
Zachary Cantor

21 Counsel for Plaintiffs

22 SHEPPARD MULLIN RICHTER &
23 HAMPTON LLP

24 Dated: June ___, 2024

25 Adam R. Rosenthal
26 Robert K. Foster
27 Counsel for Defendant PRODUCERS
28 MEAT AND PROVISION, INC.

1 **IT IS SO AGREED:**

2
3 Dated: June __, 2024

By: _____

MARCELA GOMEZ

4
5 Dated: June __, 2024

6
7 By: _____

MARIBEL PERALTA

9
10 PRODUCERS MEAT AND PROVISION, INC.

11 Dated: June 17, 2024

12
13 
14 By: Pete Tarantino

Title: CEO

15
16 **APPROVED AS TO FORM ONLY:**

17 CANTOR LAW

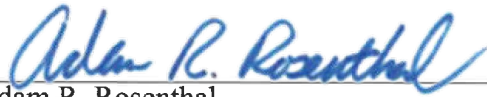
18
19 Dated: June __, 2024

Zachary Cantor

Counsel for Plaintiffs

21
22 SHEPPARD MULLIN RICHTER &
23 HAMPTON LLP

24 Dated: June 18, 2024

25 
Adam R. Rosenthal

Robert K. Foster

26 Counsel for Defendant PRODUCERS
27 MEAT AND PROVISION, INC.
28

NOTICE OF CLASS ACTION SETTLEMENT

Marcela Gomez et al. v. Producers Meat and Provision, Inc., et al.

San Diego County Superior Court Case No. 37-2022-00037381-CU-OE-NC

IF YOU WERE EMPLOYED AS AN HOURLY EMPLOYEE AT PRODUCERS MEAT AND PROVISION, INC. IN THE STATE OF CALIFORNIA DURING THE SETTLEMENT PERIOD (DEFINED AS SEPTEMBER 19, 2018 THROUGH AUGUST 23, 2024) YOU ARE ENTITLED TO RECEIVE MONEY FROM A CLASS ACTION SETTLEMENT.

A court approved this notice. This is not an advertisement.

You are not being sued. However, your legal rights are affected whether you act or not.

PLEASE READ THIS NOTICE.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
INCLUDE THE FOLLOWING:	
DO NOTHING	You will receive a payment from the Settlement. No action is required for you to receive a share of this Class Settlement and PAGA Settlement.
EXCLUDE YOURSELF	<u>You will receive no payment on the Class Settlement, but you will still receive your share of the PAGA Settlement.</u> This is the only option that allows you to file your own lawsuit against <i>Producers Meat and Provision, Inc.</i> for the claims released in this Settlement.
OBJECT	If you choose, you may object to this Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from receiving a portion of the Class Settlement.

WHAT IS IN THIS NOTICE

1.	Why Should You Read This Notice?.....	Page 2
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3.	How Much Can I Expect to Receive?.....	Page 2
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8.	What Are my Rights? How Will My Rights Be Affected?	Page 4
9.	How Will Plaintiffs' Attorneys for the Case Be Paid?	Page 6

1. *Why Should You Read This Notice?*

You have received this Notice because records indicate that you are a member of the settlement class settled in this action. The settlement class is comprised of hourly employees employed by *Producers Meat and Provision, Inc.* in the State of California, including hourly employees of staffing agency Southwest Staffing who worked at Producers Meat and Provision, Inc., during the Settlement Period (defined as September 19, 2018 through August 23, 2024) (“Class Members”).

This Notice tells you of your rights to share in the Settlement. There was a Preliminary Approval hearing on August 23, 2024 at 8:30 a.m. in the San Diego County Superior Court, State of California. The Court determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate and reasonable and that a final determination of the issues will be made at the final approval hearing. The Court also ordered that you receive this Notice.

The Court has appointed a neutral company, Rust Consulting, Inc. (“Settlement Administrator”), to send this Notice, calculate and make payments, and process Class Members’ requests for exclusion and objections. The Settlement Administrator also will decide any challenges by Class Members over Workweeks and/or PAGA Pay Periods, mail and remail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

The Court will hold a Final Approval Hearing concerning the proposed Settlement on **TBD in Department C-70** of the San Diego County Superior Court located at 330 W Broadway, San Diego, CA 92101. The Final Approval Hearing may be continued to another date, and notice will be posted **online on the Settlement Administrator’s website at: www.rustconsulting.com/cases/gomez-v-producers**. You are not required to appear at the Final Approval Hearing, however if you choose to appear, the Court strongly encourages telephonic appearances via CourtCall.

2. *What is the Class Action Settlement?*

The Court must approve the terms of the Settlement described herein as fair, adequate, and reasonable to the Class Members. The Settlement will affect all members of the class. You may get money from the Class Action Settlement. This Notice will explain the terms of the Settlement and the amount of money you may receive under the Settlement.

3. *How Much Can I Expect to Receive?*

Defendants will pay a total sum of Seven Hundred Twenty-Three Thousand Dollars (\$723,000.00), which includes all settlement payments, attorney's fees, costs, costs of administering the Settlement, and the class representatives' Payment.

Each participating Class Member will receive an amount based on the number of weeks worked during the class period between September 19, 2018 and August 23, 2024. It is also your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your payment under the Settlement. Your estimated number of workweeks is <<workweeks>> for an estimated amount of \$<<estimatedaward>>.

Tax Treatment of Class Member Individual Settlement Payments: Because the Individual Settlement Payments are for settlement of claims for alleged unpaid wages, including minimum wages, alleged unpaid meal and rest period premium wages, alleged interest and statutory and civil penalties, 25% of the individual Class Member Payments will be allocated to the unpaid wages claim and will be subject to tax withholdings, and this portion of the payment will be reported on an IRS Form W-2; 75% will be allocated to interest and statutory and civil penalties claims, and the portions allocated to the interest and statutory and civil penalty claims will be paid without withholding any amount and will be reported on an IRS Form 1099.

4. *What Is the Case About?*

Plaintiffs Marcela Gomez and Maribel Peralta filed this lawsuit on September 19, 2022 on behalf of themselves and other similarly situated and aggrieved hourly employees employed at Producers Meat and Provision, Inc. in the State of California, Case No. 37-2022-00037381-CU-OE-NC, alleging causes of action for: (1) failure to provide rest periods or pay one hour of additional wages in lieu thereof; (2) failure to provide meal periods or pay one hour of additional wages in lieu thereof; (3) failure to pay reporting time wages and other wages; (4) failure to timely pay compensation due and owing in violation of California Labor Code § 203; (5) failure to comply with itemized employee wage statement provisions; and (6) unfair business practices - California Business and Professions Code §§ 17200-17208. On November 29, 2022, Plaintiff Maribel Peralta filed a notice with the California Labor & Workforce Development Agency ("LWDA") pursuant to Labor Code section 2699.3, stating she intended to serve as a proxy of the LWDA to recover civil penalties for various alleged Labor Code violations ("PAGA Notice"). On December 22, 2022, Plaintiffs filed their first amended complaint in the Lawsuit, which addressed some alleged deficiencies noted by Defendant. On March 13, 2023, Plaintiffs filed their second amended complaint in the Lawsuit, which added a cause of action for violation of PAGA (Labor Code § 2698 *et seq.*) and is the operative complaint in the Lawsuit.

Defendant Producers Meat and Provisin, Inc. ("Defendant") denies the claims and allegations asserted in the lawsuit and believe it has no liability for any of Plaintiffs' or the Class Members' and PAGA Settlement Members' claims under any statute, wage order, common law, or equitable theory. On or about March 20, 2024, the Parties reached a Settlement subject to Court approval as represented in the Joint Stipulation of Class Settlement and Release Of Claims (the "Settlement" or "Settlement Agreement"). Class Counsel believes that the Settlement is fair, reasonable, and adequate, and that it is in the best interests of Class Members. Likewise, Defendant has decided that settlement is favorable because it avoids the time, risk, and expense

of a lengthy lawsuit and settlement immediately resolves, finally and completely, the pending and potential claims. Defendant does not admit, concede or imply that it has done anything wrong or legally actionable by settling this lawsuit.

5. *Why Did the Defendant Join in This Notice?*

The Defendant does not admit any claim alleged in the lawsuit and denies that it owes money for any of the claims in this matter. The Defendant is settling the lawsuit as a compromise. The Defendant reserves the right to object to and defend itself against any claim if, for any reason, the Settlement fails. The Court file has the Settlement documents with more information on the lawsuit.

6. *Who Is the Plaintiff in This Class Action?*

Marcela Gomez and Maribel Peralta are the Plaintiffs and Class Representatives in this class action lawsuit. They are acting on behalf of themselves and on behalf of other members of the class.

7. *Who Are the Attorneys Representing the Parties?*

Class Counsel

Zachary Cantor, Esq. (SBN 270507)
CANTOR LAW
1112 Montana Avenue, Suite C
Santa Monica, CA 90403
Tel.: (310) 393-6620 / Fax: (310) 393-6680
Email: Zachary@cantorlawyers.com

Defense Counsel

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
Including Professional Corporations
ADAM R. ROSENTHAL, Cal. Bar No. 246722
ROBERT K. FOSTER, Cal. Bar No. 329353
arosenthal@sheppardmullin.com
rfoster@sheppardmullin.com
12275 El Camino Real, Suite 100
San Diego, California 92130-2006
Telephone: 858.720.8900
Facsimile: 858.509.3691

8. *What are my Rights? How Will My Rights Be Affected?*

Class Counsel, appointed and approved by the Court for Settlement only, will represent you. Notice of Final Judgment will be posted on the Settlement Administrator's website: www.rustconsulting.com/cases/gomez-v-producers.

Participating in the Settlement

Under the Settlement, you will **automatically** receive a settlement payment, unless you opt out by following the opt-out procedure set forth below.

This Notice of Settlement states the total number of workweeks you worked for Defendants during the Class Period. Your individual settlement payment as a Class Member will be based on that number. If you believe the information on this Notice is correct, then you do not need to take any further action to receive your settlement payment.

If you believe the workweek information shown above is incorrect, you should contact the Settlement Administrator listed at the end of this Notice on or before [DATE]. You should submit to the Settlement Administrator documentation to support the number of workweeks you believe you worked during the Class Period. If there is a dispute about the workweeks you worked, the Settlement Administrator will review the records to resolve the dispute.

NOTE: UNLESS YOU DISPUTE THE WORKWEEK INFORMATION LISTED ABOVE OR OPT OUT OF THE SETTLEMENT, YOU WILL RECEIVE MONEY FROM THE SETTLEMENT BASED ON THE AMOUNTS SET FORTH ABOVE.

If you are a current employee of the Defendant, your decision as to whether or not to participate in this Settlement will not affect or in any way impact your employment.

Objecting to the Settlement

If you wish to Object to the Settlement, submit your objection in writing to the settlement administrator.

IF YOU OBJECT TO THE SETTLEMENT, YOU WILL STILL RECEIVE YOUR SHARE OF THE SETTLEMENT IF THE COURT APPROVES THE SETTLEMENT.

Opting Out of the Settlement

If you wish to be excluded from participating in the Settlement, you must submit a written request to Opt-Out to the Settlement Administrator at the address below requesting to be excluded from the Settlement. To be considered valid, your Opt-Out must be signed by you, and contain your name, address, telephone number, and the last four digits of your Social Security number. Your Opt-Out also must clearly indicate that you desire to be excluded from the Settlement. To be considered timely, your Opt-Out must be postmarked no later than [DATE]. Late Opt-Out's will not be considered.

If you timely mail a complete and valid Opt-Out, you will no longer be a member of the Class and you will not be eligible to receive money under the Settlement or object to the terms of the Settlement. You will not be bound by the terms of the Settlement, and may pursue any valid claims you may have, at your own expense, against Producers Meat and Provision, Inc.

However, you will remain a PAGA Settlement Member under the PAGA Settlement and will receive your share of the PAGA Settlement.

Effect of the Settlement on Your Rights

If this Settlement is approved by the Court, a Judgment will be entered by the Court as to the Lawsuit per the terms of this Settlement, and this Settlement combined with the Judgment will release all of the “Released Claims” as set forth herein for Class Members who do not timely and validly opt-out of this Settlement. Released Claims means any and all liabilities, demands, claims, causes of action, complaints, and obligations, whether known or unknown, suspected or unsuspected, in law, equity, or whatever kind or nature, against Defendants, and its former and current members, parents, subsidiaries, affiliates, divisions, fiduciaries, corporations in common control, predecessors, successors, and assigns, as well as all past and present officers, directors, employees, partners, shareholders and agents, attorneys, insurers, and any other successors, assigns, or legal representatives, including *Producers Meat and Provision, Inc.* that are or that could have been pled during the Class Period in the operative Complaint relating to (1) failure to provide rest periods or pay one hour of additional wages in lieu thereof; (2) failure to provide meal periods or pay one hour of additional wages in lieu thereof; (3) failure to pay reporting time wages and other wages; (4) failure to timely pay compensation due and owing in violation of California Labor Code § 203; (5) failure to comply with itemized employee wage statement provisions; and (6) unfair business practices - California Business and Professions Code §§ 17200-17208, other related statutory and civil penalties, including PAGA penalties, attorneys’ fees and costs, based on the facts alleged in the operative Complaint and Plaintiff’s November 29, 2022 PAGA Notice to the Labor Workforce Development Agency during the Class Period. These released claims and damages are hereinafter referred to as the “Released Claims”. The time period governing these Released Claims shall be the Class Period.

Check Cashing Deadline

Any checks issued by the Class Administrator to participating Class Members shall be negotiable for one hundred and eighty (180) calendar days. Checks that are not cashed within 180 days will be held by the State as unclaimed property. The parties agree that this disposition results in no “unpaid residue” under California Civil Procedure Code Section 384, as the entire Net Settlement Proceeds will be paid out to Settlement Class Members.

9. How Will the Attorneys for the Class and Others Be Paid?

The attorneys for the Class Representative and the Settlement Class will be paid from the Gross Settlement Amount of \$723,000. The attorneys are seeking a fee of \$253,050 as well as reimbursement of their costs, up to \$16,000. The Class Representatives Marcela Gomez and Maribel Peralta are each seeking a Plaintiffs Enhancement Award of up to \$10,000 each from the Settlement for their services as Class Representatives. The Settlement Administrator estimates that the cost of administration will be approximately \$20,000. The Labor and Workforce

Development Agency's portion of the PAGA Settlement of \$30,000. All of these amounts are to be deducted from the Gross Settlement Amount of \$723,000, with the remainder available for distributions to Class Members who do not Opt Out. While the \$723,000 Gross Settlement Amount is fixed, the actual amounts awarded to Class Counsel, the Class Representatives and the Settlement Administrator and deducted from the Gross Settlement Amount will be determined by the Court.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may call the Settlement Administrator at the following telephone number, toll free: (877) 310-0494; or contact Class Counsel, Zachary Cantor (310.393.6620) or email him at Zachary@cantorlawyers.com.

Please refer to the *Producers Meat and Provision, Inc.* Settlement Administrator c/o Rust Consulting, Inc. - 8410 PO Box 2396 Faribault, MN 55021-9096 Telephone: (877) 310-0494.

You can find a copy of the Settlement Agreement at the San Diego County Superior Court located at 1100 Union Street, San Diego, CA 92101.

DO NOT TELEPHONE THE COURT FOR LEGAL ADVICE OR FOR INFORMATION ABOUT THIS SETTLEMENT.