

CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

This Class and Representative Action Settlement Agreement (“**Agreement**”) is made by and between Plaintiff Jessica Hayward (“**Plaintiff**”), on behalf of herself and all others similarly situated and aggrieved employees, and Defendant Aztec Shops, LTD. (“**Defendant**”). Plaintiff and Defendant, collectively, are referred to in this Agreement as the “**Parties**” and each individually as a “**Party**.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “**Action**” means the Complaints, original and first amended, filed or caused to be filed by Plaintiff in *Hayward v. Aztec Shops, LTD.*, Case No. 37-2023-00007756-CU-OE-CTL, pending in the Superior Court of the State of California for the County of San Diego.
2. “**Aggrieved Employees**” means all persons employed by Defendant in the Food & Beverage Operation at Snapdragon Stadium as hourly, non-exempt employees during the PAGA Period.
3. “**Agreement**” and/or “**Settlement**” means this Class and Representative Action Settlement Agreement, which is intended to settle and finally and completely dispose of the Action, subject to Court approval.
4. “**Class**” means all persons employed by Defendant in the Food & Beverage Operation at Snapdragon Stadium as hourly, non-exempt employees during the Class Period.
5. “**Class Counsel**” means Nicholas J. Ferraro and Lauren Vega of Ferraro Vega Employment Lawyers, Inc.
6. “**Class Counsel Fees Payment**” mean the amount awarded to Class Counsel by the Court to compensate it for, among other things, its reasonable attorneys’ fees in connection with prosecuting the Action and PAGA Letter, its pre-filing investigation, all related litigation activities, all related settlement activities, and all post-settlement activities.
7. “**Class Counsel Litigation Expenses Payment**” means the amount awarded by the Court to reimburse Class Counsel for all reasonable litigation costs and expenses incurred in connection with prosecuting the Action and PAGA Letter.
8. “**Class Data**” means for each Class Member and Aggrieved Employee: his or her name; last known mailing address; last known telephone number; social security number; for each Class Member, the total number of workweeks worked during the Class Period; and for each Aggrieved Employee, the total number of pay periods worked during the PAGA Period. Defendant’s records which contain the Class Data shall be given the presumption of accuracy.

9. **“Class Member”** means each member of the Class.
10. **“Class Notice”** means the Notice of Proposed Settlement of Class and Representative Action and Hearing Date for Final Court Approval substantively in the form attached as Exhibit A to this Agreement and incorporated by reference into this Agreement which must be approved by the Court and which shall be sent to each Class Member by the Settlement Administrator.
11. **“Class Period”** means the period from August 1, 2022 through December 31, 2023.
12. **“Class Representative Service Payment”** means the payment awarded by the Court to Plaintiff in her individual capacity as the putative class and PAGA representative in order to compensate her for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s fees, costs and expenses in the event she was unsuccessful in the prosecution of the Action, and for her general release of all claims.
13. **“Court”** means the Superior Court of the State of California, County of San Diego.
14. **“Defendant’s Counsel”** means Remy Kessler and Jeffrey E. Fields of Constangy, Brooks, Smith & Prophete, LLP.
15. **“Effective Date”** means the later of:
- a. The date which is sixty (60) days after entry by the Court of a Final Approval Order and Judgment if no timely appeal is filed with respect to the Final Approval Order and Judgment and if no motion for extension of time to appeal is filed; or
 - b. If a notice of appeal is timely filed, whether or not the time to do so has been extended, the date upon which all appellate and/or other proceedings resulting from the notice of appeal have been fully terminated in such matter as to permit the Final Approval and Judgment to take effect.
16. **“Election Not to Participate in Settlement”** means the written request by a Class Member to exclude himself or herself from the Settlement that is submitted in accordance with the Agreement and the instructions in the Class Notice.
17. **“Final Approval Order”** means the date on which the Court enters an order granting final approval of the Settlement that is binding upon the Parties, all Participating Class Members and all Aggrieved Employees.
18. **“Final Approval Hearing”** means the hearing conducted by the Court to determine whether to grant final approval of the Settlement, to enter the Final Approval Order and Judgment and to implement the terms of this Agreement.
19. **“Gross Settlement Amount”** means Four Hundred Eighty-Five Thousand Dollars (\$485,000.00) to be paid by Defendant as provided by this Agreement. This amount

is inclusive of all payments contemplated by this Agreement for final resolution of this Action, including all payments to Class Members and Aggrieved Employees, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service, the payment to the Aggrieved Employees and the Labor and Workforce Development Agency (“**LWDA**”) in connection with Plaintiff’s PAGA claims, and all costs and fees reasonably incurred by the Settlement Administrator for settlement administration (“**Settlement Administration Expenses**”). The employer’s share of payroll taxes on any portion of the payments allocated to wages shall be paid separately by Defendant and shall not be included in or paid from the Gross Settlement Amount. No funds from the Gross Settlement Amount shall revert to Defendant or be deemed an unpaid residue or unclaimed or abandoned funds within the meaning of California Code of Civil Procedure section 384. Participating Class Members shall not be required to submit a claim in order to receive a Settlement Share.

20. “**Judgment**” means the judgment entered by the Court upon granting final approval of this Settlement resulting in the dismissal of this Action and that is binding upon the Parties, all Participating Class Members and Aggrieved Employees, substantially in the form attached hereto as Exhibit C.
21. “**Net Settlement Amount**” means the Gross Settlement Amount less the Court-approved amounts for the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the PAGA Payment to the LWDA, and Settlement Administration Expenses.
22. “**Non-Participating Class Member**” means a Class Member who properly excludes himself or herself from the Class by submitting a valid and timely Election Not to Participate in Settlement and who shall thereafter not be entitled to any benefits under the Settlement and who shall not be bound to the Judgment, except as specified in this Agreement.
23. “**PAGA Period**” means the time period from August 1, 2022 through December 31, 2023.
24. “**Participating Class Member**” means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
25. “**Preliminary Approval of the Settlement**” means the date on which the Court enters the Preliminary Approval Order and, among other things, approves and authorizes the mailing of the Class Notice, sets a Final Approval Hearing and conditionally certifies the Class for settlement purposes only.
26. “**Released Parties**” means Defendant, and its past, present and future agents, managers, officers, directors, employees, attorneys, trustees, directors, boards, administrators, insurers, owners, subsidiaries, divisions, related and affiliated companies and entities (including, but not limited to, the Trustees of the California State University, San Diego State University, and their respective related entities),

parent companies, predecessors, successors, assigns, all persons and entities acting by, through, under, or in concert with any of them and each and all of them, and all persons and entities who/which could have been named in the Action based on the facts alleged in Plaintiff's pleadings filed in the Action and in the PAGA Letter. Released Parties also specifically includes any actual or putative joint employer(s) of any Class Member(s).

27. **"Settlement Administrator"** means CPT Group, in which the Parties and their counsel represent they do not have any financial interest or otherwise have a relationship that would create a conflict of interest.

28. **"Settlement Share"** means the money each Participating Class Member and Aggrieved Employee shall receive from the Net Settlement Amount as provided by this Agreement and as approved by the Court.

II. RECITALS

Plaintiff's PAGA Letter

29. On February 6, 2023, Plaintiff submitted or caused to be submitted to the LWDA a letter notifying the LWDA that she intended to pursue claims for civil penalties against Defendant under the PAGA for alleged violations of the California Labor Code (**"PAGA Letter"**). The LWDA did not respond to the PAGA Letter or otherwise indicate that it intended to investigate Plaintiff's allegations.

Plaintiff's Class and Representative Action

30. On February 23, 2023, Plaintiff filed or caused to be filed her Class Action Complaint against Defendant. Plaintiff asserted claims for:

- a. Minimum Wage Violations;
- b. Failure to Pay All Overtimes Wages;
- c. Meal Period Violations;
- d. Rest Period Violations;
- e. Paid Sick Leave Violations;
- f. Untimely Payment of Wages;
- g. Wage Statement Violations;
- h. Waiting Time Penalties;
- i. Failure to Provide Records;
- j. Unfair Competition;

31. On April 14, 2023, Plaintiff filed a First Amended Class and Representative Action Complaint (“**FAC**”), dropping her cause of action for Failure to Provide Records that was alleged in the Complaint and adding a cause of action for Civil Penalties under the Private Attorneys General Act of 2004 (Labor Code § 2698, *et seq.*) (“**PAGA**”).

32. On May 23, 2023, Defendant filed an Answer to the FAC.

Mediation

33. On November 27, 2023, the Parties participated in a private mediation with experienced mediator, Steven Rottman (“**Mediator**”), which resulted in a settlement in principle of the Action.

Based on these Recitals, each of which is integral to and part of this Agreement, the Parties agree as follows:

III. SETTLEMENT TERMS

34. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement and Court approval, the Settlement Administrator shall make the following distributions from the Gross Settlement Amount:

- a. **To Plaintiff:** In addition to her Settlement Share, Plaintiff shall be entitled to receive a Class Representative Service Payment from the Gross Settlement Amount of not more than Ten Thousand Dollars (\$10,000.00). If the Court approves a Class Representative Service Payment of less than Ten Thousand Dollars (\$10,000.00), the difference between the amount requested and the amount approved by the Court shall revert to the Net Settlement Amount for distribution to Participating Class Members. Because the Class Representative Service Payment shall not constitute wages, no payroll tax withholding or deductions shall be made from such payment. Upon receipt of a properly completed and signed Internal Revenue Service (“**IRS**”) Form W-9, the Settlement Administrator shall issue an IRS Form 1099 to Plaintiff with respect to such payment.
- b. **To Class Counsel:** Class Counsel shall be entitled to receive an award of not more than thirty-three percent (33 1/3%) of the Gross Settlement Amount, which is One Hundred Sixty One Thousand, Five Hundred and Five Dollars (\$161,505.00), as its Class Counsel Fees Payment, and not more than Twenty-Nine Thousand Dollars (\$29,000.00) as its Class Counsel Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment of less than the amount(s) requested, the difference between the amount(s) requested and the amount(s) awarded shall revert to the Net Settlement Amount for distribution to Participating Class Members. The Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment shall be made by the Settlement Administrator to Class Counsel, without any tax deductions or withholdings, upon the Settlement Administrator’s

receipt of a properly completed and signed IRS Form W-9. The Settlement Administrator shall issue one or more IRS Forms 1099, as needed, to Class Counsel for such payments.

- c. **To the LWDA and Aggrieved Employees:** To the extent approved by the Court, Twenty Thousand Dollars (\$20,000.00) shall be allocated from the Gross Settlement Amount for civil penalties under the PAGA (“**PAGA Payment**”). Seventy-Five percent (75%), or Fifteen Thousand Dollars (\$15,000.00), of the PAGA Payment shall be paid by the Settlement Administrator to the LWDA. The remaining Twenty-Five percent (25%), or Five Thousand Dollars (\$5,000.00), shall be part of the Net Settlement Amount and shall be distributed to the Aggrieved Employees pursuant to the formula set forth in this Agreement. If the Court requires a PAGA Payment of more than Twenty Thousand Dollars (\$20,000.00), the difference between the amount requested and the amount required to be paid shall increase the PAGA Payment and shall be subtracted from the Gross Settlement Amount.
- d. **To the Settlement Administrator:** At the conclusion of settlement administration, and subject to Court approval, the Settlement Administrator shall be entitled to receive from the Gross Settlement Amount the Settlement Administration Expenses, as described below, in an amount not to exceed Twelve Thousand Two Hundred and Fifty Dollars (\$12,250.00).

35. **Payments From the Net Settlement Amount.** Each Participating Class Member and Aggrieved Employee shall be entitled to receive a Settlement Share as described below. In the event the Court requires a different methodology or allocation for calculating each Settlement Share, except as set forth herein, under no circumstances shall Defendant be required to pay more than the Gross Settlement Amount as part of the Settlement.

- a. **To Aggrieved Employees:** Defendant shall provide the Settlement Administrator with the total number of pay periods worked by all Participating Class Members who are Aggrieved Employees during the PAGA Period based on Defendant’s records (“**Total Pay Periods**”); the Settlement Administrator shall then divide the amount of Five Thousand Dollars (\$5,000.00) by the Total Pay Periods, resulting in a value for each pay period (“**Pay Period Value**”); the Settlement Administrator shall then take the number of pay periods for each Aggrieved Employee and multiple it by the Pay Period Value to derive the appropriate payment for each Aggrieved Employee.
- b. **To Class Members:** The amount remaining from Net Settlement Amount, after subtracting, the portion of the PAGA Payment that is payable to Aggrieved Employees, shall be considered the “**Class Settlement Amount.**” Each Participating Class Member who is a Class Member shall be entitled to a portion of the Class Settlement Amount as follows:

Defendant shall provide the Settlement Administrator with the total number of workweeks worked by all Participating Class Members in the Class based on Defendant's records ("**Compensable Workweeks**"); the Settlement Administrator shall then divide the Class Settlement Amount by the total number of Compensable Workweeks for all Participating Class Members who are Class Members, resulting in a value for each Compensable Workweek ("**Workweek Value**"); the Settlement Administrator shall then take the number of Compensable Workweeks for each Participating Class Member who is a Class Member and multiple it by the Workweek Value to derive the appropriate payment for each Participating Class Member.

c. **Taxation.**

- i. Each payment from the PAGA Payment shall be in settlement of claims for alleged civil penalties and shall not be subject to payroll tax withholdings or deductions. Each amount paid from the PAGA Payment shall be reported by the Settlement Administrator on an IRS Form 1099.
 - ii. **Twenty percent (20%)** of each Participating Class Member's share of the Class Settlement Amount shall be treated as taxable wages ("**Wage Portion**") and shall be subject to all appropriate payroll tax withholdings and deductions. The Settlement Administrator shall report the Wage Portion paid to each Participating Class Member who is a Class Member on an IRS Form W-2.
 - iii. **Eighty percent (80%)** of each Participating Class Member's share of the Class Settlement Amount shall be treated as statutory interest and penalties ("**Non-Wage Portion**") and shall not be subject to payroll tax withholdings or deductions. The Settlement Administrator shall report the Non-Wage Portion paid to each Participating Class Member who is a Class Member on an IRS Form 1099.
- d. **Class Size/Workweeks Modification and Escalator Clause.** At the time of the mediation, as described above, Defendant estimated that there were approximately 1,000 Class Members who collectively worked approximately 20,000 workweeks from August 1, 2022 to November 26, 2023. Within twenty (20) calendar days of entry of the Preliminary Approval Order, Defendant shall provide a declaration under penalty of perjury confirming the number of Class Members and the number of workweeks they worked during the Class Period. If the number of workweeks for Class Members increases by more than ten percent (10%), Defendant shall increase the Gross Settlement Amount by a proportionate additional amount for each additional workweek.

36. **Appointment of Settlement Administrator/Duties.** The Settlement Administrator, as a condition of appointment, shall agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's

duties shall include, but shall not be limited to, preparing, printing, and mailing the Class Notice to all Class Members; conducting a National Change of Address search to update addresses prior to mailing; performing reasonable skip tracing for any Class Notice returned by the U.S. Postal Service as non-deliverable, and re-mailing the Class Notice to the Class Member's new address; setting up and monitoring a toll-free telephone number to receive calls from Class Members regarding the Settlement; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of Class Notices and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares; issuing and mailing checks and accompanying notices to effectuate the payments due under the Settlement; preparing and issuing all appropriate tax filings and reports required under this Settlement; remitting to all appropriate government agencies all applicable taxes; establishing a Qualified Settlement Fund ("QSF") under Section 468B of the Internal Revenue Code for purposes of administering this Settlement, in which the Gross Settlement Amount shall be placed and from which payments required by the Settlement shall be made; forwarding the funds from uncashed Settlement Share checks to the State Controller's Unclaimed Property Fund in the names of Participating Class Members and Aggrieved Employees; complying with all orders of the Court; and otherwise administering the Settlement pursuant to this Agreement. Subject to consultation with Class Counsel and Defendants' Counsel and subject to Court review, the Settlement Administrator shall have the final authority to resolve all disputes concerning the calculation of each Settlement Share.

37. **Procedure for Approving Settlement.**

a. **Motion for Preliminary Approval of Settlement by the Court.**

Plaintiff shall serve and file a motion with the Court for an order seeking preliminary approval of the Settlement, conditionally certifying the Class for settlement purposes only, appointing the Settlement Administrator, setting a date for the Final Approval Hearing, and approving the form and mailing of the Class Notice ("**Motion for Preliminary Approval**"). Class Counsel shall provide Defendant's Counsel for its review and comments with a draft of the Motion for Preliminary Approval and supporting documents no later than seven (7) calendar days prior to filing the Motion for Preliminary Approval.

Upon filing the Motion for Preliminary Approval, Class Counsel shall submit a proposed order preliminarily approving the Settlement ("**Preliminary Approval Order**"), substantially in the form attached hereto as Exhibit B. Class Counsel shall also submit a copy of this Agreement to the LWDA at the same time it is submitted to the Court in accordance with California Labor Code section 2699(1)(2).

If the Court declines to preliminarily approve this Settlement, the Parties shall work together in a good faith effort to address the concerns and issues

raised by the Court and to submit a revised settlement agreement for the Court's preliminary approval. The Parties also agree to seek the Mediator's assistance, if necessary, to resolve any disputes regarding settlement terms. The fees of the Mediator for such services shall be split equally between the Parties.

- b. **Notice to Class Members.** After the Court enters the Preliminary Approval Order, the Settlement Administrator shall provide all Class Members with the Class Notice. The Parties agree that the Class Notice, and the manner in which it is given, as described below, is the best notice practicable to Class Members and fully complies with due process.

No later than **twenty (20) calendar days** after the Court enters the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class Data in electronic format. The Class Data shall remain confidential and shall not be disclosed to anyone other than the Settlement Administrator or as permitted by this Agreement or by the Court. The Class Data shall not be used for any purpose other than for administration of the Settlement.

The Settlement Administrator shall run the Class Data through the National Change of Address database to update or correct any known or identifiable address changes prior to mailing the Class Notices. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the most current mailing address for each Class Member. No later than fifteen **(15) days** after receiving the Class Data, the Settlement Administrator shall mail the Class Notices to all Class Members via regular first-class U.S. Mail using the mailing address provided by Defendant, unless modified by any updated address that the Settlement Administrator obtains in the course of administration of the Settlement.

If a Class Notice is returned as non-deliverable, the Settlement Administrator shall promptly, and no later than **ten (10) days** from receipt of the returned Class Notice, re-mail the Class Notice to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a current mailing address by the use of skip-tracing or other type of automated search, using the name, address and/or social security number of the Class Member involved, and shall promptly, and no later than ten (10) days from receipt of the returned Class Notice, perform a re-mailing of the Class Notice to the Class Member, assuming another mailing address is identified by the Settlement Administrator. If the Class Notice is re-mailed, the date by which Class Members may submit written objections to the Settlement or to exclude themselves from the Settlement shall be extended an additional fifteen (15) days.

The Settlement Administrator shall submit to Class Counsel and

Defendant's Counsel a weekly status report of the number of Class Notices which have been returned as non-deliverable, the number of Elections Not to Participate in Settlement it receives and the number of objections to the Settlement it receives.

No later than ten (10) days before Plaintiff files her motion for final approval of the Settlement, the Settlement Administrator shall provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the number of Elections Not to Participate in Settlement that it has received, along with the names of the Class Members who submitted them, and detailing any objections to the Settlement that it has received from Participating Class Members. Prior to the Final Approval Hearing, the Settlement Administrator shall supplement its declaration of due diligence if any material changes occur after the date of submission of its prior declaration.

c. **Objections to Settlement; Disputes as to Workweeks and/or Pay Periods Allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement. Non-Participating Class Members may not submit objections to the Settlement.

i. **Objections to Settlement.** The Class Notice shall inform Class Members that if they do not exclude themselves from the Settlement, they may object to it, either in writing before the Final Approval Hearing or orally at the Final Approval Hearing. Written objections must be submitted to the Settlement Administrator and postmarked no later than forty-five (45) calendar days after the Settlement Administrator mails or re-mails the Class Notice to the Class Member. Written objections must set forth the specific grounds for the objection(s) and must otherwise comply with the instructions in the Class Notice. A Participating Class Member who does not submit an objection in the manner and by the deadline specified in this Agreement and in the Class Notice, or who does not appear at the Final Approval Hearing to object to the Settlement, shall be deemed to have waived any objection to the Settlement and shall be foreclosed from making any subsequent objection (whether by appeal or otherwise) to the Settlement. Plaintiff hereby represents that she has no objection to the Settlement.

ii. **Disputes as to Number of Workweeks and/or Pay Periods.** Each Participating Class Member shall also have forty-five (45) calendar days after the Settlement Administrator mails or re-mails the Class Notice in which to dispute the number of workweeks attributed to him or her during the Class Period, as specified in the Class Notice, and each Aggrieved Employee shall have the same period of time in

which to dispute the number of pay periods attributed to him or her during the PAGA Period, as specified in the Class Notice. Any notice of dispute shall be submitted by the Participating Class Member/Aggrieved Employee to the Settlement Administrator. Any dispute as to the number of workweeks and/or pay periods attributed to any Participating Class Member and/or Aggrieved Employee shall be resolved by the Settlement Administrator, with input and assistance from Defendant's Counsel, to the extent needed.

iii. **Election Not to Participate in Settlement.** The Class Notice also shall provide that Class Members who wish to exclude themselves from the Settlement shall submit to the Settlement Administrator no later than forty-five (45) calendar days after the Settlement Administrator mails or re-mails the Class Notice to that Class Member, a signed Election Not to Participate in Settlement. To be valid, an Election Not to Participate in Settlement must be timely and must comply with this Agreement and the instructions in the Class Notice. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator shall have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member shall not participate in or be bound by the Settlement or the Final Approval Order and Judgment, except that a Non-Participating Class Member who is also an Aggrieved Employee shall still be entitled to receive his or her allocation of the PAGA Payment and shall be bound by the PAGA Released Claims. A Class Member who does not submit an Election Not to Participate in Settlement in the manner and by the deadline specified in this Agreement and in the Class Notice shall automatically become a Participating Class Member and shall be bound by all terms and conditions of the Settlement and by the Final Approval Order and Judgment. Class Members who submit an Election Not to Participate in Settlement shall not be permitted to object to the Settlement or appear at the Final Approval Hearing to assert any objections to the Settlement. Plaintiff hereby waives any right to submit an Election Not to Participate in Settlement.

iv. **Report by Settlement Administrator.** No later than **ten (10)** calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a complete and accurate list of all Participating Class Members and all Non-Participating Class Members.

d. **Right of Defendant to Revoke/Terminate Settlement.** If more than five percent (5%) of the Class Members timely submit valid Elections Not to

Participate in Settlement, Defendant shall have the option, but shall not be required, to terminate or revoke this Agreement. Defendant shall exercise its revocation/termination rights, if at all, by providing written notice to Class Counsel within seven (7) days of Defendant's Counsel being informed by the Settlement Administrator of the total number of Class Members who have submitted Elections Not to Participate in Settlement. If Defendant exercises its revocation/termination rights, the Parties shall have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement, except that Defendant shall pay the Settlement Administration Expenses incurred as of the date that Defendant exercises the right to revoke/terminate the Settlement pursuant to this paragraph.

- e. **No Solicitation of Objections to or Election Not to Participate in Settlement.** The Parties and their respective counsel agree that they shall not solicit or otherwise encourage, directly or indirectly, any Class Member to object to the Settlement, appeal from the Final Approval Order and Judgment, or submit an Election Not to Participate in Settlement.
- f. **Motion for Final Approval of Settlement.**

As directed by the Court, Class Counsel shall be responsible for filing a motion seeking final approval of the Settlement. Such motion shall be considered by the Court at the Final Approval Hearing. At least seven (7) calendar days before such motion is filed, Class Counsel shall provide Defendant's Counsel with a draft for its review and comments.

If the Court requires any revisions to the Agreement or requests additional information or briefing before granting final approval of the Settlement, the Parties shall work together in good faith to comply with the Court's directives.

At or after the Final Approval Hearing, the Parties shall present for the Court's approval and entry the Final Approval Order and Judgment, substantially in the form attached hereto as Exhibit C. Within ten (10) calendar days after the Court enters the Final Approval Order and Judgment, Class Counsel shall serve a copy of the Final Approval Order and Judgment on the LWDA pursuant to California Labor Code section 2699(1)(3).

- g. **Funding of Settlement; Payment of Settlement Shares and Other Payments.** Defendant shall submit by wire transfer or otherwise the Gross Settlement Amount for deposit into the QSF established by the Settlement Administrator within fifteen (15) days of the Effective Date. Within thirty (30) days of the Effective Date, the Settlement Administrator shall pay all Settlement Shares to Participating Class Members and Aggrieved Employees, the Class Counsel Fees Payment, the Class Counsel Litigation

Expenses Payment, the Class Representative Service Payment and the PAGA Payment to the LWDA in accordance with this Agreement. Defendant shall separately submit to the Settlement Administrator the employer's share of payroll taxes for deposit into the QSF within thirty (30) days of the Effective Date or the date the Settlement Administrator calculates and provides Defendant with the amount of the employer's share of payroll taxes, whichever is later.

- h. **Uncashed Settlement Share Checks.** Settlement Share checks shall remain negotiable for One Hundred Eighty (180) calendar days after they are mailed by the Settlement Administrator. If a Settlement Share check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall make all reasonable efforts to re-mail it to the affected Participating Class Member/Aggrieved Employee at his or her correct address by use of skip-tracing or any other reasonable means. If any Settlement Share check remains uncashed after the expiration of the One Hundred Eighty (180) day period, the Settlement Administrator shall cancel said check and pay the amount represented by said check to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the person who did not cash his or her check until such time as he or she claims his or her property, as permitted by law.
- i. **Final Report by Settlement Administrator to Court.** Within ten (10) calendar days of final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator shall provide the Parties with a declaration or verified report on the disbursements of all funds from the Gross Settlement Amount.

38. Release of Claims.

- a. **Participating Class Members of the Class.** Upon the Effective Date, Participating Class Members of the Class, for the Class Period, shall be deemed to have forever released, acquitted, and discharged the Released Parties from any and all demands, rights, liabilities, claims and/or causes of action that are alleged in the Action or that could have been alleged based on the facts alleged in the Action or in the PAGA Letter, including, all claims under California Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through 248.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, or any subsection thereof, all claims for Minimum Wage Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting Time Penalties; Failure to Provide Records; and Unfair Competition (*i.e.*, California Business and Professions Code section 17200), for penalties pursuant to the PAGA, and for any other claims or legal theories asserted, or which could have been asserted, in the Action based on the facts alleged in the Action ("**Class Released Claims**").

- b. **Aggrieved Employees.** Upon the Effective Date, Aggrieved Employees and the State of California, for the PAGA Period, shall be deemed to have forever released, acquitted, and discharged the Released Parties from any and all demands, rights, liabilities, claims and/or causes of action that are alleged in the Action or that could have been alleged based on the facts alleged in the Action or in the PAGA Letter, including, all PAGA claims based on alleged violations of California Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through 248.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, or any subsection thereof, and all PAGA claims for Minimum Wage Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting Time Penalties; and Failure to Provide Records (“**PAGA Released Claims**”).
- c. **Plaintiff.** Upon the Effective Date, and in addition to the releases above, Plaintiff, on her own behalf and on behalf of her heirs, spouses, executors, administrators, attorneys, agents and assigns, forever releases, acquits and discharges the Released Parties from all claims, losses, demands, rights, liabilities, penalties, damages, causes of action and other legal responsibilities, in any form whatsoever, whether based on federal, state, local, statutory or common law, or any other law, rule, or regulation, whether known or unknown, unforeseen, unanticipated, unsuspected or latent, that have been asserted or could have been asserted in any forum by Plaintiff or her heirs, successors and/or assigns, whether directly or indirectly, representatively, derivatively or in any other capacity, including any and all known and unknown claims arising under the California Labor Code, the California Government Code and the California Business and Professions Code, common law, and the law of contracts, torts or equity, and those claims that were asserted or could have been asserted in the Action or PAGA Letter, or which relate in any way to Plaintiff’s employment with any of the Released Parties, arising at any time prior to entry of the Final Approval Order and Judgment (“**Plaintiff’s Released Claims**”).
- d. **Plaintiff’s Waiver of Rights Under California Civil Code Section 1542.** The Settlement is intended by the Parties to be a general release and covenant not to sue as to Plaintiff. It is therefore understood and agreed that Plaintiff expressly waives the rights and benefits of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her would have materially affected his or her settlement with the debtor or released party

- e. **Class Counsel.** Upon the Effective Date, and except as otherwise provided by this Agreement, Class Counsel and any counsel associated with Class Counsel waive any right or claim to costs and attorneys' fees and expenses against the Released Parties arising from or related to the Action and PAGA Letter. However, if Class Counsel is required to enforce the Judgment after the Effective Date, this provision shall not be deemed to limit Plaintiff or Class Counsel's right to seek reasonable attorneys' fees or costs for such additional work.

39. **No Effect on Other Benefits.** It is expressly understood and agreed that payments made under this Agreement shall not entitle any Participating Class Member or Aggrieved Employee (including Plaintiff) to additional compensation or benefits in any manner beyond that expressly provided for in this Agreement, including any increased retirement benefits, 401(k) or matching contribution benefits, deferred compensation, bonuses, or other compensation or benefits of any type or form (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the Class Period or PAGA Period).

40. **Limitation on Public Statements About Settlement.** Plaintiff and Class Counsel agree that they shall not disclose, disseminate and/or publicize, cause or permit to disclose, disseminate or publicize, any of the terms of this Agreement, directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity until preliminary approval of the Settlement is sought from the Court, and, thereafter, to the fullest extent possible. They also agree not to make or offer to make any disclosures other than what is necessary and consistent with the need for judicial approval of the Settlement and notice to Class Members and Aggrieved Employees. At no time shall Plaintiff and Class Counsel have any communications with the media about this Agreement, the Action or any claims alleged in the Action. Documents filed with the Court in the Action, including the signed Judgment, may be posted on Class Counsel's website, as indicated in the Class Notice. This provision shall not restrict Class Counsel from responding to inquiries from Class Members and Aggrieved Employee or otherwise complying with its ethical duties under the Settlement or to Plaintiff.

41. **Miscellaneous Terms.**

- a. **No Admission of Liability or use of Class Certification for Other Purposes.**

Defendant denies that it has engaged in any wrongful or unlawful conduct, that it failed to comply with the law in any respect, that it has any liability to Plaintiff, Class Members or Aggrieved Employees based on the claims or causes of action asserted in the Action and PAGA Letter, and denies that, but for this Agreement, any class should be certified in the Action, and that any person is entitled to any recovery. Defendant specifically denies any liability to Plaintiff, Class Members and Aggrieved Employees upon any

claim or cause of action asserted in the Action or PAGA Letter. Neither this Agreement nor any other document constitutes, nor is intended to constitute, an admission by any of the Released Parties as to the merits, validity, or accuracy of any of the allegations or claims made in the Action or PAGA Letter. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement or otherwise is intended to constitute or should be construed as (1) an admission of liability or wrongdoing by any of the Released Parties or (2) an admission by Plaintiff that any claim asserted in the Action was non-meritorious or any defense asserted by Defendant was meritorious. The Parties have entered into this Settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses and risks.

Whether or not the Final Approval Order and Judgment becomes final, neither the Settlement, this Agreement, the negotiation and execution of the Agreement, any document, statement, proceeding, act or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, shall be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any of the other Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant or any of the other Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against Defendant or any of the other Released Parties, in any further proceeding in the Action, or in any other civil, criminal or administrative action or proceeding, except for purposes of effectuating the Settlement pursuant to this Agreement.

This Agreement may be admitted into evidence and otherwise used in any and all legal proceedings to enforce any or all terms of this Agreement and in defense of any Class Released Claims, PAGA Released Claims or Plaintiff's Released Claims.

- b. **Integrated Agreement.** The Parties represent that this Agreement and its exhibits shall constitute the entire agreement between the Parties relating to the Settlement, and that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- c. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by the Parties they represent to take all appropriate action required or permitted to be taken pursuant to this Agreement to effectuate its terms, and shall reasonably seek authorization to execute any other documents required to effectuate the terms of this Agreement, including any amendments to this Agreement, if necessary.

The Parties, Class Counsel and Defendant's Counsel shall cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or contents of any document needed to implement the Settlement, the Parties may seek the assistance of the Court and/or the Mediator for resolution.

- d. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
- e. **No Tax Advice:** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon by any person as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. Participating Class Members, Aggrieved Employees and Class Counsel shall be responsible for the payment of all taxes and penalties assessed on the payments specified herein, and shall hold the Released Parties and Defendant's Counsel free and harmless from and against any claims resulting from the treatment of any payments as non-taxable, including the treatment of any payments as not subject to payroll tax withholdings or deductions.
- f. **Modification of Agreement.** This Agreement may not be amended, modified, changed, or waived except by an express written instrument signed by all Parties or as expressly permitted by this Agreement, and as approved by the Court.
- g. **Agreement Binding on Successors.** This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.
- h. **Applicable Law.** All terms and conditions of this Agreement and its exhibits shall be governed by and interpreted according to the substantive laws of the State of California.
- i. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement shall not be construed in favor of or against any Party by reason of that Party's participation in the drafting of this Agreement.
- j. **Continuing Cooperation.** The Parties, to the greatest extent possible, shall work together to effectuate the Settlement, and each term in the Agreement. Unless otherwise agreed to by the Parties, this joint obligation includes, but is not limited to, fully documenting the settlement, expeditiously

completing or filing any other required documents or pleadings and arguing that the terms and conditions of the Agreement should be fully enforced.

- k. **Fair Settlement.** The Parties represent that this Agreement is a fair, reasonable, and adequate settlement of the Action and that they have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- l. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant's Counsel in connection with the mediation or other settlement negotiations in the Action may be used only with respect to this Settlement, and for no other purpose, and may not be used in any way that violates this Agreement or any existing contractual agreement, statute, or rule. Within thirty (30) days after entry of the Final Approval Order and Judgment, Class Counsel shall return all such documents and data to Defendant's Counsel or destroy and confirm in writing to Defendant's Counsel the destruction of all such documents and data.
- m. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only.
- n. **Notice.** All notices, demands or other communications given under this Agreement shall be in writing and addressed as follows:

To Plaintiff, Class Members and Aggrieved Employees:

Ferraro Vega Employment Lawyers, Inc.
Nicholas J. Ferraro
Lauren N. Vega
3160 Camino del Rio South, Suite 308
San Diego, California 92108
Tel: (619) 693-7727
Fax: (619) 350-6855
Email: classactions@ferrarovega.com

To Defendant:

CONSTANGY, BROOKS, SMITH & PROPHETE, LLP
Remy Kessler
Jeffrey E. Fields
2029 Century Park East, Suite 1100
Los Angeles, CA 90067
Tel.: (310) 909-7775
Fax: (424) 465-6630
Email: rkessler@constangy.com
jfields@constangy.com

- o. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, mail or electronically which, for purposes of this Agreement, shall all be accepted as an original. All executed counterparts and each of them shall be deemed to be one and the same instrument. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.
- p. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement, and to the extent needed to effectuate the terms and conditions of this Agreement, they shall seek a stay of the Action for all purposes other than to seek preliminary and final approval of this Settlement.
- q. **Court Filings.** The Parties agree not to object to any filings with the Court that comply or are consistent with this Agreement.
- r. **Continuing Jurisdiction.** The Parties agree that, following entry of the Final Approval Order and Judgment, the Court shall retain continuing jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith. The Parties also agree that the time from the full execution of this Agreement until the entry of the Final Approval Order and Judgment or, if not entered, the date this Agreement shall no longer be of any force or effect shall not be counted for bringing the Action to trial under California Code of Civil Procedure section 583.310.

IV. EXECUTION BY THE PARTIES AND THEIR COUNSEL

The Parties hereby agree to this Agreement.

Dated: _____, 2024 JESSICA HAYWARD

Dated: February 12, 2024 AZTEC SHOPS, LTD.

By: Heather Hawkins
Chief Financial Officer

APPROVED AS TO FORM:

Dated: _____, 2024

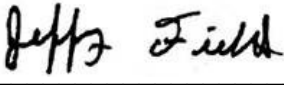
FERRARO VEGA EMPLOYMENT LAWYERS,
INC.

By: _____

Nicholas Ferraro
Attorneys for Plaintiff Jessica Hayward, on behalf
of herself and all others similarly situated and
aggrieved employees

Dated: February 12, 2024

CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

By: 

Remy Kessler
Jeffrey E. Fields
Attorneys for Defendant Aztec
Shops, LTD.

- o. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, mail or electronically which, for purposes of this Agreement, shall all be accepted as an original. All executed counterparts and each of them shall be deemed to be one and the same instrument. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.
- p. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement, and to the extent needed to effectuate the terms and conditions of this Agreement, they shall seek a stay of the Action for all purposes other than to seek preliminary and final approval of this Settlement.
- q. **Court Filings.** The Parties agree not to object to any filings with the Court that comply or are consistent with this Agreement.
- r. **Continuing Jurisdiction.** The Parties agree that, following entry of the Final Approval Order and Judgment, the Court shall retain continuing jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith. The Parties also agree that the time from the full execution of this Agreement until the entry of the Final Approval Order and Judgment or, if not entered, the date this Agreement shall no longer be of any force or effect shall not be counted for bringing the Action to trial under California Code of Civil Procedure section 583.310.

IV. EXECUTION BY THE PARTIES AND THEIR COUNSEL

The Parties hereby agree to this Agreement.

Dated: February 23rd, 2024

JESSICA HAYWARD



Dated: _____, 2024

AZTEC SHOPS, LTD.

By: _____

APPROVED AS TO FORM:

Dated: February 13, 2024

FERRARO VEGA EMPLOYMENT LAWYERS,
INC.

By: Nicholas J. Ferraro
Nicholas Ferraro
Attorneys for Plaintiff Jessica Hayward, on behalf
of herself and all others similarly situated and
aggrieved employees

Dated: _____, 2024

CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

By: _____
Remy Kessler
Jeffrey E. Fields
Attorneys for Defendant Aztec
Shops, LTD.

EXHIBIT A

EXHIBIT “A”

**NOTICE OF PROPOSED SETTLEMENT OF CLASS AND REPRESENTATIVE
ACTION
AND HEARING DATE FOR FINAL COURT APPROVAL**

**(*Hayward v. Aztec Shops, LTD.*, Superior Court of the State of California, County of San
Diego, Case No. 37-2023-00007756-CU-OE-CTL)**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. The actual amount you receive will depend on a number of factors. Additional information is set forth below in Section 6.
Exclude Yourself On or before [45 days from mailing]	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are also an Aggrieved Employee and exclude yourself, you will still be paid your allocation of the PAGA Payment and will remain subject to the release of the PAGA Released Claims regardless of whether you submit a request for exclusion. Instructions are set forth in Section 7 below.
Object On or before [45 days from mailing]	Write to the Court about why you do not agree with the Settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below.
Final Approval Hearing	The Court will hold a Final Approval Hearing at _____ on _____, at the San Diego County Superior Court, Central, located at 330 West Broadway, San Diego, CA 92101, in Department 70 before Judge Carolyn M. Caietti. This hearing may change as explained below in Section 9.

Your options are further explained in this Class Notice. To exclude yourself from, or object to, the settlement you must take action by certain deadlines. If you want to participate in the Settlement as proposed, you do not need to do anything to obtain your Settlement Share.

1. Why did I get this Notice?

A proposed class and representative action settlement (the “Settlement”) of the above-captioned cases pending in the Superior Court of the State of California, in and for the County of San Diego (the “Court”), has been reached between Plaintiff Jessica Hayward (“Plaintiff”) and Defendant Aztec Shops, LTD. (“Defendant”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Notice because you have been identified as a member of the Class (“Class Member”), which is defined as:

The **Class** is defined as: “all persons employed by Defendant in the Food & Beverage Operation at Snapdragon Stadium as hourly, non-exempt employees during the Class Period.” The “Class Period” means the period from August 1, 2022 through December 31, 2023.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On February 23, 2023, Plaintiff filed or caused to be filed a Class Action Complaint against Defendant. Plaintiff asserted claims for: Minimum Wage Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting Time Penalties; Failure to Provide Records; and Unfair Competition. On April 14, 2023, Plaintiff filed a First Amended Class and Representative Action Complaint (“FAC”), dropping her cause of action for Failure to Provide Records that was alleged in the Complaint and adding a cause of action for Civil Penalties under the Private Attorneys General Act of 2004 (Labor Code § 2698, *et seq.*) (“PAGA”). This lawsuit is referred to as the “Action”.

Defendant denies that it has done anything wrong and disputes all the claims in the Action. Specifically, Defendant contends that Plaintiff and the Class Members were, at all times, properly compensated for wages under California law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Defendant did not fail to pay to Plaintiffs or any Class Members any wages allegedly due at the time of their termination; that Defendant complied with California wage statement requirements; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant is not liable for any of the damages, penalties and other relief sought or that could be sought in the Action; and that the Action cannot be maintained as a class or representative action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm Ferraro Vega Employment Lawyers, Inc. to serve as Class Counsel.

The Court has not ruled on the merits of Plaintiff's claims. The Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant (the "Parties"). However, to avoid additional expense, inconvenience, and interference with the business operations of Defendant, the Parties concluded that it is in their best interests and the interests of the Class and Aggrieved Employees to settle the Action now on the terms summarized in this Class Notice. The Settlement was reached after mediation and arm's-length negotiations between the Parties. The Plaintiff and Class Counsel think the settlement is in the best interest of all Class Members and Aggrieved Employees.

Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay a total amount of Four Hundred Eighty Five Thousand Dollars (\$485,000.00) (the "Gross Settlement Amount") to fund the settlement of the Action. The Gross Settlement Amount includes all payments to Class Members and Aggrieved Employees, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the payment to the Aggrieved Employees and the State of California Labor and Workforce Development Agency ("LWDA") in connection with Plaintiff's PAGA claims, and all costs and fees reasonably incurred by the Settlement Administrator for settlement administration ("Settlement Administration Expenses"). Any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages shall be separately paid by Defendant.

Within fifteen (15) days of the Effective Date, Defendant will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. The "Effective Date" means sixty (60) days after the entry of the Judgment, unless there are objections or an appeal, in which case it is the date the Judgment is no longer subject to appeal. Fifteen (15) days after the Gross Settlement Amount is funded, the Settlement Administrator will mail checks for the Settlement Shares to Participating Class Members and Aggrieved Employees.

Amounts to be Paid From the Gross Settlement Amount. The following proposed payments, subject to Court approval, will be deducted from the Gross Settlement Amount before payments of Settlement Shares are made to Class Members who do not request exclusion ("Participating Class Members"):

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed Twelve Thousand Two Hundred and Fifty Dollars (\$12,250.00), for expenses, including expenses of notifying the Class Members of the Settlement, processing Class Member who opt out of the Settlement, and distributing settlement checks and tax forms.
- Attorneys' Fees and Costs. Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount ("Class Counsel Fees Payment"), which presently equals \$161,505.00, and an additional amount to reimburse

actual litigation costs incurred not to exceed Twenty-Nine Thousand Dollars (\$29,000.00) (“Class Counsel Litigation Expenses Payment”). Class Counsel has been prosecuting the Action on behalf of Plaintiff, the Class and Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided by the Court at the Final Approval Hearing.

- Class Representative Service Payments. A Class Representative Service Payment in an amount not more than \$10,000 for the Plaintiff as a service award, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class and Aggrieved Employees in initiating and prosecuting the Action, and for the risks she undertook. The amount stated is what Plaintiff will be requesting and the final amount to be paid will be decided by the Court at the Final Approval Hearing.
- PAGA Payment. A payment of \$20,000 relating to Plaintiff’s claim under the PAGA, \$15,000 of which will be paid to the LWDA. The remaining \$5,000 will be distributed to the Aggrieved Employees to be allocated based on the number of pay periods worked as an Aggrieved Employee during the PAGA Period, which is August 1, 2022 through December 31, 2023. “Aggrieved Employees” are all persons employed by Defendant in the Food & Beverage Operation at Snapdragon Stadium as hourly, non-exempt employees during the PAGA Period.

Calculation of Payments to Class Members. After all of the payments of the Court-approved Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the PAGA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, the “Net Settlement Amount”, shall be distributed as Settlement Shares to the Participating Class Members. The Net Settlement Amount is estimated to be Two Hundred Fifty-Two Thousand Two Hundred Forty-Five Dollars (\$252,245.00). The Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member and the Settlement Share will be calculated as follows:

The amount remaining from Net Settlement Amount after subtracting the portion of the PAGA Payment that is payable to Aggrieved Employees shall be considered the “Settlement Amount.” Each Participating Class Member who is a Class Member shall be entitled to a portion of the Settlement Amount as follows: (i) The Settlement Administrator shall divide the Settlement Amount by the total number of Compensable Workweeks for all Participating Class Members who are Class Members, resulting in a value for each Compensable Workweek (“Workweek Value”); (ii) the Settlement Administrator shall then take the number of Compensable Workweeks for each Participating Class Member who is a Class Member and multiple it by the Workweek Value to derive the appropriate payment for each Participating Class Member. The number of Workweeks will be based on Defendant’s records, however, Participating Class Members may challenge the number of Workweeks as explained below.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address changes,

you must contact the Settlement Administrator to provide your correct address to ensure you receive your payments.

Tax Payments. Twenty percent (20%) of each Participating Class Member's Settlement Share shall be treated as wages (the "Wage Portion"). Accordingly, the Wage Portion is subject to payroll tax withholdings, and shall be reported on an IRS Form W-2. Eighty percent (80%) of each Participating Class Member's Settlement Share shall be treated as statutory interest and penalties (the "Non-Wage Portion"). The Non-Wage Portion shall not be subject to payroll tax withholdings, and shall be reported on an IRS Form 1099. Each payment from the PAGA Payment shall be in settlement of claims for alleged civil penalties and shall not be subject to payroll tax withholdings. Each amount paid from the PAGA Payment shall be reported by the Settlement Administrator on an IRS Form 1099. Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute tax advice. Each Participating Class Member's tax situation is unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement and your receipt of the Settlement Share payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. Upon the Effective Date, Participating Class Members of the Class, for the Class Period, shall be deemed to have forever released, acquitted, and discharged the Released Parties from any and all demands, rights, liabilities, claims and/or causes of action that are alleged in the Action or that could have been alleged based on the facts alleged in the Action or in the PAGA Letter, including, all claims under California Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through 248.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, or any subsection thereof, all claims for Minimum Wage Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting Time Penalties; Failure to Provide Records; and Unfair Competition (*i.e.*, California Business and Professions Code section 17200) ("Class Released Claims").

This means that, if you do not timely and properly exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any legal action against Defendant and/or any other Released Party about the Class Released Class Claims resolved by this Settlement. It also means that all of the Court's orders and judgments in the Action will apply to you and legally bind you.

PAGA Released Claims. Upon the Effective Date, Aggrieved Employees and the State of California, for the PAGA Period, shall be deemed to have forever released, acquitted, and discharged the Released Parties from any and all demands, rights, liabilities, claims and/or causes of action that are alleged in the Action or that could have been alleged based on the facts alleged in the Action or in the PAGA Letter, including, all PAGA claims based on alleged violations of Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through 248.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, or any subsection thereof, all

claims for Minimum Wage Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting Time Penalties; Failure to Provide Records (“PAGA Released Claims”).

5. How much money will I receive?

[The Workweek Value is estimated to be <<\$_____>>. Defendant’s records reflect that you worked <<____>> Workweeks during the Class Period (August 1, 2022 through December 31, 2023). Based on this information, your estimated Settlement Share from the Settlement Amount is <<____>>.]

[Defendant’s records reflect that you worked <<____>> pay periods during the during the PAGA Period (August 1, 2022 through December 31, 2023). Based on this information your estimated share of the PAGA payment is <<____>>.]

If you wish to challenge the number of Workweeks and/or Pay Periods attributable to you, as set forth above, you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than _____ [forty-five (45) days after the mailing of the Class Notice or 60 days in the case of re-mailing].

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. If a settlement check is uncashed after 180 days, the funds from such uncashed checks will be paid to the California State Controller’s Unclaimed Property Fund in the name of the individual who failed to cash the check where the funds may be claimed.

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Settlement Share will be mailed automatically to you. If your address is incorrect or has changed, you must promptly notify the Settlement Administrator. The Settlement Administrator is: _____ (800) _____.

The Court will hold a Final Approval Hearing on _____, at _____, at the address set forth below in Section 9, to decide whether to approve the Settlement and fix the amounts to be paid under the Settlement. If the Court approves the Settlement and there are no appeals, payments will be mailed to you in approximately three months after this hearing. If there are appeals, resolving them can take time. Please be patient.

7. What if I do not want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or “opt out.” **If you opt out, and except as stated in this Section, you will not receive a Settlement Share from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendant for the Class Released Claim.** However, Aggrieved Employees who opt out of the Settlement will still be paid their allocation of the

PAGA Payment and will remain subject to the PAGA Released Claims regardless of whether they submit a request for exclusion.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than _____ [forty-five (45) days after this Notice is mailed or re-mailed]. The request to opt-out should state in substance that you wish to be excluded from the Settlement in the *Hayward v. Aztec Shops, LTD.* lawsuit. The request to opt-out should state your full name, address, telephone number, and the last-four digits of your social security number. Please include the name and number of the case, which is *Hayward v. Aztec Shops, LTD.*, Case No. 37-2023-00007756-CU-OE-CTL. The request to opt-out must be completed and signed by you or your legal representative if you are incapable of completing and signing the request to opt out.

The address for the Settlement Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned, will be rejected, and you will remain bound by the Settlement and the releases described above.

8. How do I tell the Court that I do not agree with the Settlement?

Any Class Member who has not opted out of the Settlement yet believes that the Settlement should not be finally approved by the Court for any reason may object to the Settlement. Objections may be in writing and should state your name, current address, telephone number, and the dates of your employment with Defendant and describe the specific grounds why you object to the Settlement. All written objections or other correspondence should also state the name and number of the case, which is *Hayward v. Aztec Shops, LTD.*, Case No. 37-2023-00007756-CU-OE-CTL.

The written objections must be mailed to the Settlement Administrator at _____ no later than _____ [forty-five (45) days after this Notice is mailed or re-mailed].

Alternatively, or in addition to submitting written objections to the Settlement, you may appear in person or remotely at the Final Approval Hearing on _____, at _____ a.m., to make an oral objection or to otherwise participate in the Final Approval Hearing. To appear remotely at the hearing, you may do so through Zoom as explained at <https://www.sdcourt.ca.gov/virtualhearings>. Check the Court's website for the most current information.

To object to the Settlement, you must not opt out of the Settlement. If the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as other Participating Class Members who do not object.

The addresses for the Parties' counsel are as follows:

CLASS COUNSEL:

Nicholas J. Ferraro
Lauren N. Vega
Ferraro Vega Employment Lawyers, Inc.
3160 Camino del Rio South, Suite 308
San Diego, California 92108
Tel: (619) 693-7727
Fax: (619) 350-6855
Email: nick@ferrarovega.com
lauren@ferrarovega.com

COUNSEL FOR DEFENDANT:

Remy Kessler
Jeffrey E. Fields
Constangy, Brooks, Smith & Prophete, LLP
2029 Century Park East, Suite 1100
Los Angeles, CA 90067
Tel.: (310) 909-7775
Fax: (424) 465-6630
Email: rkessler@constangy.com
jfields@constangy.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at _____ a.m., on _____, in Department 70 of the Superior Court of California, County of San Diego, 330 West Broadway, San Diego, CA 92101. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval of the Settlement and to fix the amounts to be paid under the Settlement. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. If you are interested in attending the Final Approval Hearing, you should confirm the date, time and location by contacting Class Counsel. You are not required to attend the Final Approval Hearing, although any Class Member or Aggrieved Employee is welcome to attend the hearing in person or remotely using the Zoom procedure explained at <https://www.sdcourt.ca.gov/virtualhearings>.

10. How do I get more information about the Settlement?

You may contact the Settlement Administrator by calling _____ or writing to *Hayward v. Aztec Shops, LTD.* Settlement Administrator, c/o _____.

This Class Notice only summarizes the proposed Settlement. More details are in the Settlement Agreement and other documents filed with the Court. If you wish to view the Court files related to this Action in person, you may go to the courthouse located at 330 West Broadway, San Diego, CA 92101.

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE.

EXHIBIT B

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Attorneys for Plaintiff Jessica Hayward

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JESSICA HAYWARD *et al.*

Plaintiffs,

vs.

AZTEC SHOPS, LTD. *et al.*

Defendants.

CASE NO.: 37-2023-00007756-CU-OE-CTL
(Assigned For Purposes To Judge Carolyn M. Caietti, Dept. 70)

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: May 17, 2024
Hearing Time: 10:30 a.m.
Dept.: 70
Judge: Hon. Carolyn M. Caietti

PRELIMINARY APPROVAL ORDER

1 This matter came before the Honorable Carolyn M. Caietti of the Superior Court of the
2 State of California, in and for the County San Diego, on May 17, 2024, for hearing on the
3 unopposed Motion by Plaintiff Jessica Hayward (“Plaintiff”) for Preliminary Approval of the
4 Class and Representative Action Settlement (“Agreement” or “Settlement”) with Defendant Aztec
5 Shops, LTD. (“Defendant”). The Court, having considered the briefs, oral argument of counsel
6 and all matters presented to the Court and for good cause appearing, hereby GRANTS Plaintiff’s
7 Motion.

8 **IT IS HEREBY ORDERED AS FOLLOWS:**

9 1. The Court preliminarily approves the Agreement attached as Exhibit #1 to the
10 Declaration of Nicholas J. Ferraro in Support of Plaintiff’s Motion. This is based on the Court’s
11 determination that the Settlement set forth in the Agreement is within the range of possible final
12 approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure and
13 California Rules of Court, Rule 3.769.

14 2. This Order incorporates by reference the definitions in the Agreement, and all
15 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

16 3. If the Settlement is finally approved, the Gross Settlement Amount that Defendant
17 shall pay is Four Hundred Eighty Five Thousand Dollars (\$485,000.00). It appears to the Court on
18 a preliminary basis that the settlement amount and terms are fair, adequate and reasonable as to all
19 potential Class Members when balanced against the probable outcome of further litigation and the
20 significant risks relating to certification, liability and damages issues. It further appears that
21 investigation and research have been conducted such that counsel for the Parties are able to
22 reasonably evaluate their respective positions. It further appears to the Court that the Settlement
23 shall avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
24 would be presented by the further prosecution of the Action. It further appears that the Settlement
25 has been reached as the result of serious and non-collusive, arms-length negotiations utilizing an
26 experienced third party neutral.

1 4. The Agreement provides for a Class Counsel Fees Payment not to exceed one-third
2 of the Gross Settlement Amount, a Class Counsel Litigation Expenses Payment not to exceed
3 Twenty-Nine Thousand Dollars (\$29,000.00), and a proposed Class Representative Service
4 Payment to Plaintiff in an amount not to exceed \$10,000. The Court shall not approve the amount
5 of attorneys' fees and costs, nor the amount of any service award to Plaintiff, until the Final
6 Approval Hearing. Plaintiff shall be required to present evidence supporting these requests,
7 including her counsel's lodestar, in connection with the Final Approval Hearing.

8 5. The Court recognizes that Plaintiff and Defendant stipulate and agree certification
9 of a class for settlement purposes only. This stipulation to class certification shall not be deemed
10 admissible in this or any other proceeding should the Settlement not become final. For settlement
11 purposes only, the Court conditionally certifies the Class. The Class is defined as "all persons
12 employed by Defendant in the Food & Beverage Operation at Snapdragon Stadium as hourly, non-
13 exempt employees during the Class Period." The "Class Period" is August 1, 2022 through
14 December 31, 2023.

15 6. The Court concludes that, for settlement purposes only, the Class meets the
16 requirements for certification under section 382 of the California Code of Civil Procedure in that:
17 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
18 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
19 community of interest amongst the members of the Class with respect to the subject matter of the
20 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d)
21 the Plaintiff will fairly and adequately protect the interests of the members of the Class; (e) a class
22 action is superior to other available methods for the efficient adjudication of this controversy; and
23 (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate
24 representative of the Class.

25 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
26 Court provisionally appoints Nicholas J. Ferraro and Lauren Vega of Ferraro Vega Employment
27 Lawyers, Inc. as Class Counsel for the Class.

1 8. The Court hereby approves, as to form and content, the Notice of Proposed
2 Settlement of Class and Representative Action and Hearing Date for Final Court Approval (“Class
3 Notice”) attached to this Order as Exhibit 1. The Court finds that the Class Notice appears to fully
4 and accurately inform the Class of all material elements of the proposed Settlement, of the Class
5 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
6 member’s right and opportunity to object to the Settlement. The Court further finds that the
7 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
8 and this Order meets the requirements of due process, is the best notice practicable under the
9 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
10 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
11 the Agreement. If a Class Notice is returned as non-deliverable, the Settlement Administrator shall
12 promptly forward the Class Notice to the forwarding address affixed thereto or search for a more
13 current address for the Class Member and re-mail the Class Notice to the Class Member no later
14 than ten days after the receipt of the undelivered Class Notice.

15 9. The Court hereby appoints CPT Group as the Settlement Administrator. The cap
16 on the amount of Settlement Administration Expenses that may be sought at the time of final
17 approval is \$35,000. No later than twenty (20) days after this Order, Defendant shall provide to
18 the Settlement Administrator with the Class Data. The Settlement Administrator shall perform
19 address updates and verifications as necessary prior to the first mailing, as specified in the
20 Agreement. Using best efforts to mail it as soon as possible, and in no event later than fifteen (15)
21 days after receiving the Class Data, the Settlement Administrator shall mail the Class Notices to
22 all Class Members via first-class regular U.S. Mail to their last known address.

23 10. The Court hereby preliminarily approves the proposed procedure for exclusion
24 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
25 from the Class as provided in the Class Notice by following the instructions for requesting
26 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
27 postmarked or received no later than forty (45) calendar days after the date of the mailing or re-

1 mailing of the Class Notices. Any Class Member who chooses to opt out of and be excluded from
2 the Class shall not be entitled to any recovery under the Settlement and shall not be bound by the
3 Settlement or have any right to object, appeal or comment thereon. Class Members who have not
4 requested exclusion shall be bound by all determinations of the Court, the Agreement and the
5 Final Approval Order and Judgment. No Class Member shall attempt to effect an opt-out of a
6 group, class, or subclass of individuals and any such attempt shall be deemed invalid.

7 11. Any Class Member who has not opted out may appear at the Final Approval
8 Hearing and may object to or express the Class Member's views regarding the Settlement, and
9 may present evidence and file briefs or other papers that may be proper and relevant to the issues
10 to be heard and determined by the Court as provided in the Class Notice. Class Members shall
11 have until forty (45) calendar days after the date of mailing or re-mailing of the Class Notices to
12 submit their written objections to the Settlement Administrator. Class Members also may appear
13 at the Final Approval Hearing to make any objection to the Settlement.

14 12. A Final Approval Hearing shall be held Court on ____, 2024, at ____ a.m., in
15 Department 70 at the Civil Courthouse of the San Diego County Superior Court to hear the motion
16 for final approval and the motion for attorneys' fees and costs, and to determine all necessary
17 matters concerning the Settlement, including: whether the proposed settlement of the Action on
18 the terms and conditions provided for in the Agreement is fair, adequate and reasonable and
19 should be finally approved by the Court; whether the Final Approval Order and Judgment should
20 be entered herein; whether the plan of allocation contained in the Agreement should be approved
21 as fair, adequate and reasonable to the Class Members; and to finally approve attorneys' fees and
22 costs, service award, and the fees and expenses of the Settlement Administrator. All papers in
23 support of the motion for final approval and the motion for attorneys' fees, costs and service
24 awards shall be filed with the Court and served on all counsel no later than sixteen (16) court days
25 before the hearing and both motions shall be heard at the Final Approval Hearing.

26 13. Neither the Settlement nor any exhibit, document, or instrument delivered
27 thereunder shall be construed as a concession or admission by Defendant in any way that the
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1 claims asserted by Plaintiff have any merit or that this Action was properly brought as a class or
2 representative action, and shall not be used as evidence of or used against Defendant as an
3 admission or indication in any way, including with respect to any claim of any liability,
4 wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation asserted
5 by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any
6 exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or
7 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received
8 as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited
9 to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
10 fault, wrongdoing, omission, concession or damage or the propriety of class certification.

11 14. In the event: (i) the Settlement does not become effective in accordance with the
12 terms of the Agreement; (ii) or the Settlement is not finally approved; or (iii) the Settlement is
13 terminated, canceled or fails to become effective for any reason, this Order shall be rendered null
14 and void and shall be vacated. In such a case, the Parties and any funds to be awarded under this
15 Settlement shall be returned to their respective statuses as of the date and time immediately prior
16 to the execution of the Settlement, and the Parties expressly reserve their respective rights
17 regarding the prosecution and defense of this Action, including all available defenses and
18 affirmative defenses, and arguments that any claim in the Action could not be certified as a class
19 action and/or managed as a representative action. In such an event, the Court's orders regarding
20 the Settlement, including this Order, shall not be used or referred to in litigation for any purpose.

21 15. The Court reserves the right to adjourn or continue the date of the Final Approval
22 Hearing and all dates provided for in the Agreement without further notice to Class Members, and
23 retains jurisdiction to consider all further motions and applications arising out of or connected
24 with the proposed Settlement.

25 **IT IS SO ORDERED.**

26 Dated: _____

27 _____
HON. CAROLYN M. CAIETTI
JUDGE OF THE SUPERIOR COURT

28 PRELIMINARY APPROVAL ORDER

EXHIBIT C

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JESSICA HAYWARD *et al.*

Plaintiffs,

vs.

AZTEC SHOPS, LTD. *et al.*

Defendants.

CASE NO.: 37-2023-00007756-CU-OE-CTL
(Assigned For Purposes To Judge Carolyn M. Caietti, Dept. 70)

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date:
Hearing Time:
Dept.: 70
Judge: Hon. Carolyn M. Caietti

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Jessica Hayward (“Plaintiff”) for an order finally
2 approving the Class and Representative Action Settlement Agreement (“Agreement”) with
3 Defendant Aztec Shops, LTD. (“Defendant”), attorneys’ fees and costs, service payment, and the
4 expenses of the Settlement Administrator duly came on for hearing on _____ before the
5 Honorable Carolyn M. Caietti.

6
7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

- 11 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 12 2. This Court has jurisdiction over the subject matter of the Action pending before the
13 Superior Court for the State of California, in and for the County of San Diego, and over all Parties
14 to the Action, and all Class Members and Aggrieved Employees.
- 15 3. Based on a review of the papers submitted by Plaintiff and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount of Four Hundred Eighty Five
17 Thousand Dollars (\$485,000.00) and the terms set forth in the Agreement are fair, reasonable, and
18 adequate.
- 19 4. The Court further finds that the Settlement was the result of arm’s length
20 negotiations conducted after Class Counsel had adequately investigated the claims asserted in the
21 Action and became familiar with the strengths and weaknesses of those claims. In particular, the
22 amount of the Settlement, along with the assistance of an experienced mediator in the settlement
23 process, among other factors, support the Court’s conclusion that the Settlement is fair,
24 reasonable, and adequate.

Preliminary Approval of the Settlement

5. On May 17, 2024, the Court entered the Order granting preliminary approval of the Settlement. At this same time, the Court approved conditional certification of the Class for settlement purposes only.

Notice to the Class

6. Pursuant to the Preliminary Approval Order, the Court-approved Class Notice was mailed by first class mail to members of the Class at their last-known addresses on or about _____. Mailing of the Class Notice to their last-known addresses was the best notice practicable under the circumstances and was reasonably calculated to communicate actual notice of the litigation and the proposed settlement to the Class. The Class Notice given to the Class Members fully and accurately informed the Class Members of all material elements of the proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California, the United States Constitution, due process and other applicable law. The Class Notice fairly and adequately described the Settlement and provided Class Members adequate instructions and a variety of means to obtain additional information.

7. The deadline to submit requests for exclusions and written objections to the Settlement was _____. A full and fair opportunity has been afforded to all Class Members to request exclusion from the Class, to object to the Settlement and to participate in the preliminary and final approval of the Settlement, and all Class Members and other persons wishing to be heard have had a full and fair opportunity to be heard. Class Members also have had a full and fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the Court determines that all Class Members who did not timely and properly submit a request for exclusion are bound by the Settlement and this Final Approval Order and Judgment.

Fairness of the Settlement

8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.

a. The settlement was reached through arm's-length bargaining between the Parties during an all-day mediation before Steven Rottman, an experienced mediator of wage and hour class actions. There has been no collusion between the Parties in reaching the Settlement.

b. Plaintiff's and Class Counsel's investigation and discovery have been sufficient to allow the Court and Class Counsel to act reasonable and diligently on behalf of all Class Members and Aggrieved Employees.

c. Counsel for all Parties are experienced in similar employment class and representative action litigation. Plaintiff's counsel have recommended approval of the Agreement.

d. The percentage of objectors and requests for exclusion is small. Objections from zero (0) Class Members were received and considered. Timely requests for exclusion were received from zero (0) Class Members.

e. The participation rate in the Settlement will be high. In particular, ___ Participating Class Members will be mailed a Settlement Share, representing 100% of the overall Class.

9. The consideration to be given to the Class Members under the terms of the Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims asserted in the Action and is fair, reasonable and adequate compensation for the release of Class Members' claims, as detailed below, given the uncertainties and significant risks of the litigation and the delays which would ensue from continued prosecution of the Action.

10. The Agreement is approved as fair, adequate and reasonable and in the best interests of the Class Members and Aggrieved Employees.

Attorneys' Fees and Costs

11. A Class Counsel's Fees Payment of \$161,505.00, representing one-third of the Gross Settlement Amount, and a Class Counsel's Litigation Expenses Payment of \$29,000.00, are reasonable in light of the contingent nature of Class Counsel's fee arrangement with Plaintiff, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested payments are supported by Class Counsel's lodestar and billing statements submitted to the Court.

II.
ORDERS

Based on the foregoing findings, and for good cause appearing, IT IS HEREBY
ORDERED:

1. The Class is certified for the purposes of the Settlement only. The Class is defined
as follows:

The **Class** is defined as: “all persons employed by Defendant in the Food &
Beverage Operation at Snapdragon Stadium as hourly, non-exempt employees
during the Class Period.” The “Class Period” means the period from August 1,
2022 through December 31, 2023.

2. All persons who meet the foregoing definition are members of the Class, except for
the Non-Participating Class Members who filed a valid and timely request for exclusion (“opt
out”) from the Class identified in the Declaration of the Settlement Administrator.

3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
best interest of the Class.

4. Class Counsel are awarded a Class Counsel Fees Payment in the amount of
\$161,505.00 and a Class Counsel Litigation Expenses Payment in the amount of \$29,000.00.
Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant,
Plaintiff, Aggrieved Employees or Class Members.

5. A Class Representative Service Payment in the amount of \$10,000 to the Plaintiff
is approved.

6. The payment of \$12,250.00 to the Settlement Administrator for Settlement
Administration Expenses is approved.

7. A PAGA Payment of \$20,000.00 is approved and shall be distributed in accordance
with the Agreement.

8. Pursuant to Labor Code section 2699, subdivision (l)(2), Class Counsel shall
submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
entry.

FINAL APPROVAL ORDER AND JUDGMENT

1 9. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
2 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
3 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
4 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
5 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement
6 is, may be construed as, or may be used as an admission by or against Defendant of any fault,
7 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
8 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
9 evidence of, an admission or concession with regard to the denials or defenses by Defendant.
10 Notwithstanding these restrictions, Defendant may file in any other proceeding this Final
11 Approval Order and Judgment, the Agreement, or any other papers and records on file in the
12 Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel,
13 release, or other theory of claim or issue preclusion or similar defense as to the Class Released
14 Claims, the PAGA Released Claims and/or the Plaintiff's Released Claims.

15 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
16 Parties by Class Counsel on behalf of Plaintiff and all Class Members, the LWDA and all
17 Aggrieved Employees. The Final Approval Order and Judgment shall be posted on Class
18 Counsel's website as set forth in the Class Notice. It shall not be necessary to send notice of entry
19 of this Final Approval Order and Judgment to individual Class Members or Aggrieved Employees.

20 11. If the Agreement does not become final and effective in accordance with the terms
21 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
22 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
23 revert to their respective positions as of before entering into the Agreement, and expressly reserve
24 their respective rights regarding the prosecution and defense of this Action, including all available
25 defenses and affirmative defenses, and arguments that any claim in the Action could not be
26 certified as a class action and/or managed as a representative action.

1 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

2 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
3 Plaintiff, all Class Members and Aggrieved Employees and the State of California, shall take
4 nothing in the Action.

5 2. The Court shall retain jurisdiction over the Action and the Parties to construe,
6 interpret, implement and enforce the Agreement, to hear and resolve any contested challenge to a
7 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
8 connection with the distribution of settlement benefits.

9 3. All Parties shall bear their own attorneys' fees and costs, except as otherwise
10 provided in the Agreement and in this Final Approval Order and Judgment.

11 4. Class Released Claims. Upon the Effective Date, Participating Class Members of
12 the Class, for the Class Period, shall be deemed to have forever released, acquitted, and discharged
13 the Released Parties from any and all demands, rights, liabilities, claims and/or causes of action
14 that are alleged in the Action or that could have been alleged based on the facts alleged in the
15 Action or in the PAGA Letter, including, all claims under California Labor Code sections 201,
16 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through 248.7, 256, 510, 512, 516, 558, 1174,
17 1194, 1197, 1197.1, 1198, all claims for Minimum Wage Violations; Failure to Pay All Overtimes
18 Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely
19 Payment of Wages; Wage Statement Violations; Waiting Time Penalties; Failure to Provide
20 Records; and Unfair Competition (*i.e.*, California Business and Professions Code section 17200)
21 ("Class Released Claims").

22 5. PAGA Released Claims. Upon the Effective Date, Aggrieved Employees and the
23 State of California, for the PAGA Period, shall be deemed to have forever released, acquitted, and
24 discharged the Released Parties from any and all demands, rights, liabilities, claims and/or causes
25 of action that are alleged in the Action or that could have been alleged based on the facts alleged
26 in the Action or in the PAGA Letter, including, all PAGA claims based on alleged violations of
27 California Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through

1 248.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, all claims for Minimum Wage
2 Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations;
3 Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting
4 Time Penalties; and Failure to Provide Records("PAGA Released Claims").

5 6. Upon the Effective Date, and in addition to the releases above, Plaintiff, on her own
6 behalf and on behalf of her heirs, spouses, executors, administrators, attorneys, agents and assigns,
7 forever releases, acquits and discharges the Released Parties from all claims as set forth in the
8 Agreement ("Plaintiff's Released Claims") and to a waiver of all rights under California Civil
9 Code section 1542.

10 7. If the check representing a Settlement Share remains uncashed for 180 days after
11 they are mailed by the Settlement Administrator, the funds from such uncashed checks shall be
12 paid to the California State Controller's Unclaimed Property Fund in the name of the Participating
13 Class Member where they may claim the funds as permitted by law.

14 8. The Court hereby enters Judgment in the Action as of the filing date of this Final
15 Approval Order and Judgment, pursuant to the terms set forth in the Settlement.

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17 Dated: _____

18 _____
19 HON. CAROLYN M. CAIETTI
20 JUDGE OF THE SUPERIOR COURT
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FINAL APPROVAL ORDER AND JUDGMENT