

STIPULATION OF CLASS AND PAGA SETTLEMENT

This Stipulation of Class and PAGA Settlement (“**Settlement Agreement**”) is reached by and between: (i) Plaintiff Manuel Hernandez Diego (“**Plaintiff**”), individually and on behalf of all Aggrieved Employees, defined below, and members of the Settlement Class, defined below, on the one hand; and (ii) Defendants James Marshall Farm Service, LLC (“**JMFS**”), Orange Cove-Sanger Citrus Association (“**OCSCA**”); and James J. Marshall dba Marshall Vineyards (“**JJM**”) (collectively “**Defendants**”) on the other hand (Plaintiff and Defendants are referred to herein as the “**Parties**”). Plaintiff, Aggrieved Employees, and the Settlement Class are represented by Daniel J. Brown and Jessica Flores of Stansbury Brown Law, PC (“**Class Counsel**”). Defendants JMFS, OCSCA and JJM are each represented by Ian B. Wieland and David G. Litman of Sagaser, Watkins & Wieland PC.

Plaintiff filed a class action complaint (“**Complaint**”) against Defendants on April 6, 2023, in Kings County Superior Court, Case No. 23C-0124, which alleges causes of action for: (1) minimum wage violations; (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to provide accurate, itemized wage statements ; (6) waiting time penalties; (7) unfair competition; and (8) failure to reimburse for necessary business expenses. Plaintiff filed a First Amended Class and Representative Action Complaint (“**FAC**”) on July 24, 2023, to add an additional cause of action for civil penalties under the Private Attorneys General Act (“**PAGA**”) pursuant to Labor Code section 2698 *et seq.* based on claims asserted in the PAGA letter Plaintiff submitted to the LWDA on April 6, 2023, in Case No. LWDA-CM-946854-23. The Complaint and FAC are referred to herein as the “**Action**.” The FAC is the Operative Complaint for settlement purposes.

On or about July 18, 2023, pursuant to a joint stipulation by the Parties, Judge Randy Edwards of Kings County Superior Court executed an order transferring the case out of Kings County Superior Court and into Fresno County Superior Court. On September 18, 2023, Fresno County Superior Court assigned the case Case No. 23CECG03758.

On January 30, 2024, Plaintiff and Defendants, represented by their respective counsel of record, privately mediated the Action before Tripper Ortman, Esq. of Ortman Mediation. The Parties were unable to reach a resolution at the mediation, but on March 1, 2024 the Parties reached a resolution by way of a mediator’s proposal.

Prior to entering into settlement discussions, the Parties conducted significant investigation of the facts and law through informal discovery, which included review and analysis of Defendants’ policies and putative class members’ and Aggrieved Employees’ time records and payroll records. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the defenses thereto, and the damages and penalties claimed by Plaintiff in the Action. As a result of the Parties’ thorough investigation of the allegations and defenses thereto, they were able to reach an agreement for a global settlement after extensive negotiations.

Given the risks and uncertainties of litigation, the Parties have agreed to settle this Action on the terms set forth herein and subject to the approval of Court. Nothing herein shall be construed

as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in this Action.

1. Certification for Settlement Purposes.

For the purposes of this Settlement Agreement only, the Parties stipulate to conditional certification of the following Settlement Class (hereinafter, the “**Settlement Class**” or “**Settlement Class Members**”):

All current and former non-exempt employees of Defendant James Marshall Farm Service, LLC who have worked at least one shift for Defendant Orange Cove-Sanger Citrus Association and/or James J. Marshall dba Marshall Vineyards at any time during the period of April 6, 2019, through April 8, 2024. (“**Class Period**”).

2. Aggrieved Employees.

For the purposes of this Settlement Agreement only, the Parties stipulate that the “**Aggrieved Employees**” shall be defined as:

All current and former non-exempt employees of Defendant James Marshall Farm Service, LLC who have worked at least one shift for Defendant Orange Cove-Sanger Citrus Association and/or James J. Marshall dba Marshall Vineyards at any time during the period of April 6, 2022, through April 8, 2024. (the “**PAGA Period**”).

3. Releases.

A. Released Parties. As referenced herein, **Released Parties** shall collectively mean: Defendants James Marshall Farm Service, LLC; Orange Cove-Sanger Citrus Association; and James J. Marshall dba Marshall Vineyards, and their respective past and present officers, directors, shareholders, heirs, representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates, related entities, predecessors, and successors.

B. Releases Effective Upon Full Payment of the GSA. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fund all employer payroll taxes owed on the wage portion of the individual Participating Member Payments, Plaintiff, Settlement Class Members, and Aggrieved Employees will release claims against all Released Parties as described below.

C. Released Class Claims. All Settlement Class Members who do not opt out of the settlement (collectively, “**Participating Settlement Class Members**”) on behalf of themselves and their respective past and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties, from all claims that were or could have been alleged based on the facts pled in the Action during the Class Period, including: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) meal period violations; (d) rest period violations; (e) failure to provide accurate, itemized wage statements ; (f) waiting time penalties; (g) all claims arising

out of unfair business practices under Business & Professions Code § 17200, *et seq.*; and (h) failure to reimburse for necessary business expenses, premised on the claims pled based on the factual allegations in the Action. This Class Release is expressly limited to shifts in which Settlement Class Members performed work on behalf of James Marshall Farm Service, LLC for Defendant Orange Cove-Sanger Citrus Association and/or James J. Marshall dba Marshall Vineyards.

D. Released PAGA Claims. Aggrieved Employees, on behalf of themselves and their respective past and present representatives, and regardless of whether they opt out of the Settlement Class, will release and discharge the Released Parties from all claims for PAGA civil penalties that were alleged based on facts pled in the Action for alleged Labor Code violations that arose during the PAGA Period. This PAGA Release is expressly limited to shifts in which Aggrieved Employees performed work on behalf of James Marshall Farm Service, LLC for Defendant Orange Cove-Sanger Citrus Association and/or James J. Marshall dba Marshall Vineyards.

E. Plaintiff's Release of Unknown Claims. In light of his Class Representative Service Award, Plaintiff agrees to release, in addition to the Released Class and PAGA Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers compensation claims or any other claims which cannot be released as a matter of law. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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.

4. Settlement Payment. In exchange for the releases set forth in this Settlement Agreement, Defendants agree to pay a common fund of Three Hundred Fifteen Thousand Dollars and Zero Cents (\$315,000.00) ("**Gross Settlement Amount**" or "**GSA**") in full and complete settlement of this matter. Besides the triggering of the escalator clause pursuant to paragraph 4(D) of this Settlement Agreement and Defendants' payment of their share of payroll taxes pursuant to paragraph 4(C) of this Settlement Agreement, in no event shall Defendants be required to pay more than the GSA. The GSA shall be paid as follows:

A. Funding of the Gross Settlement Amount. The GSA shall be deposited with the Settlement Administrator within thirty (30) days after the Effective Settlement Date (defined below).

B. Non-revisionary. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- i. All payments to the Aggrieved Employees and Settlement Class;
- ii. Settlement Administrator. All fees and expenses of the settlement administrator associated with the administration of the settlement, which are anticipated to be no greater than Eight Thousand Two Hundred Fifty Dollars and Zero Cents (\$8,250.00). The Parties agree to the appointment of Phoenix Settlement Administrators as the settlement administrator (“**Settlement Administrator**”) and to Class Counsel seeking Court approval to pay up to Eight Thousand Two Hundred Fifty Dollars and Zero Cents (\$8,250.00) from the Gross Settlement Amount for the Settlement Administrator’s services. The Settlement Administrator shall be responsible for sending all required notices in both English and Spanish, providing written reports to Class Counsel and Defense Counsel that, among other things, tally the number of Notices mailed or re-mailed, Notices returned undelivered, Requests for Exclusion, objections and disputes received from Settlement Class Members, calculating the Net Settlement Amount, calculating each Settlement Class Member’s and Aggrieved Employees’ Participating Member Payment, defined below, amount, preparing all checks and mailings and disbursing all residuals resulting from uncashed settlement checks as set forth in Paragraph 5(C), and providing declarations regarding the Settlement Administrator’s background and services for Preliminary Approval, attesting to its due diligence and compliance with all of its obligations under this Agreement for Final Approval, and a final report detailing disbursement of the Gross Settlement Amount in compliance with the Final Approval Order. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after checks have been mailed to all Aggrieved Employees and Participating Settlement Class Members (collectively “**Participating Members**”);
- iii. Class Representative Service Award. Up to Five Thousand Dollars (\$5,000) for a class representative service award to Plaintiff subject to Court approval, in recognition of Plaintiff’s general release of claims, contributions to the Action, and service to the Settlement Class. Defendants will not object to a request for a Class Representative Service Award for Plaintiff in exchange for the general release of his claims and waiver of Civil Code Section 1542, his time and risks in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff’s Participating Member Payment (defined below) as a Participating Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Class Representative Service Award to the Plaintiff is for his services in connection with this Action and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Class Representative Service Award and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Class Representative Service Award does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Class

Representative Service Award constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume all responsibility for remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendants from the Class Representative Service Award paid under this Settlement Agreement, and all liability associated therewith. In the event that the Court reduces or does not approve the requested Class Representative Service Award, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;

- iv. Class Counsel Fees and Costs. Up to thirty-five percent (35%) of the Gross Settlement Amount in attorneys' fees, which is currently estimated to be One Hundred Ten Thousand, Two Hundred Fifty Dollars (\$110,250.00), plus up to Twenty-Five Thousand Dollars (\$25,000.00) in verified costs and expenses related to the Action as supported by declaration. In the event that the Court reduces or does not approve Class Counsel's requested fees and costs, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding. If the Gross Settlement Amount increases pursuant to Paragraph 4(D), the amount of fees requested by Class Counsel will increase proportionally such that the requested award is thirty-five percent of the GSA. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court; and
- v. PAGA Penalties. Ten Thousand Dollars (\$10,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars (\$7,500.00) will be payable to the Labor & Workforce Development Agency ("**LWDA Payment**"), and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars (\$2,500.00) will be payable to the Aggrieved Employees as the "**PAGA Amount.**" The LWDA Payment and PAGA Amount are collectively referred to herein as the "**PAGA Penalties.**"

C. **Payroll Tax Payments.** Defendants' share of payroll taxes shall be paid by Defendants separately from, and in addition to, the Gross Settlement Amount.

D. **Class Escalator Clause.** Defendants represent there are approximately 233 Settlement Class Members and approximately 7,796 Class Workweeks within the Class Period. If

- the actual number of Class Workweeks within the Class Period released by this Settlement exceeds 7,796 by more than 10% (i.e., meaning that the actual Class Workweeks released are more than 8,575), then: (i) Defendants shall increase the Gross Settlement Amount on a pro-rata basis equal to the increase in class size or number of workweeks (e.g., if the number of Settlement Class Members or Class Workweeks increases by 11%, the GSA will increase by 11%), or (ii) Defendant can elect to have the Class Period cut off to a date reflecting no more than 8,575 Class Workweeks.
- E. A “**Class Workweek**” shall be any calendar week in which the Settlement Class Member worked at least one shift for Defendant Orange Cove-Sanger Citrus Association and/or James J. Marshall dba Marshall Vineyards during the Class Period based on Defendants’ records.
- F. **Effective Date of Settlement.** The Effective Settlement Date of this settlement shall mean the date the Court enters an order granting final approval of the settlement or, solely in the event that there are any objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review (“**Effective Settlement Date**” or “**Effective Date**”).
- G. **Disbursement of Gross Settlement Amount.** Within twenty (20) calendar days following the funding of the Gross Settlement Amount with the Settlement Administrator by Defendants, the Settlement Administrator will calculate Participating Member Payments (defined below) and mail individual Participating Member Payments to Participating Settlement Class Members and Aggrieved Employees and transfer to Class Counsel its attorney’s fees and verified costs.
5. **Participating Member Payment Procedures.** Participating Settlement Class Members and Aggrieved Employees (collectively, “**Participating Members**”) are not required to submit a claim form to receive their share of the Settlement (“**Participating Member Payment**”). Participating Member Payments will be determined and paid as follows:
- A. **Net Settlement Amount:** The Net Settlement Amount is the Gross Settlement Amount after the following deductions are made: (a) the costs of settlement administration described above 4 (B) (ii); (b) Class Representative Service Award to Plaintiff; (c) the LWDA Payment; and (d) costs and attorneys’ fees for Class Counsel. The Net Settlement Amount shall be available for Participating Members. From the Net Settlement Amount, the Settlement Administrator will calculate each Participating Member Payment based on the following formula:
- i. **PAGA Amount.** Each Aggrieved Employee shall receive a portion of the Two Thousand Five Hundred Dollars (\$2,500.00) that has been designated as the PAGA Amount based on their proportionate share of PAGA Pay Periods (i.e., any calendar week in which the Aggrieved Employee worked at least one shift for Defendant Orange Cove-Sanger Citrus Association and/or James J.

Marshall dba Marshall Vineyards during the PAGA Period based on Defendants' records). The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. Remainder. The remainder of the Net Settlement Amount shall be distributed to each Participating Settlement Class Member based on their proportionate share of Class Workweeks, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Participating Settlement Class Member's Class Workweeks, and the denominator of which is the total Class Workweeks of all Participating Settlement Class Members.

- B. **Participating Member Payment Tax Treatment.** For purposes of calculating applicable taxes and withholdings for the payment to Participating Members described in Paragraph 5(A)(ii), ten percent (10%) of each such payment shall be designated as wages subject to W-2 reporting and normal payroll withholdings; the remaining ninety percent (90%) of each such payment shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Additionally, 100% of the PAGA Amount paid to Aggrieved Employees shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of these payments to each Participating Member above, none of the Participating Member Payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- C. **Deadline to Negotiate Participating Member Payment.** Each Participating Member who receives a Participating Member Payment must negotiate the settlement check within one hundred eighty (180) days from the date of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Participating Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued, except for good cause and as mutually agreed by the Parties in writing. If a Participating Member does not cash or deposit his or her settlement check within 180 days, the uncashed funds, subject to Court approval, shall be transferred by the Settlement Administrator to the Boys & Girls Clubs of Fresno County, as the designated *cy pres*.
- D. Defendants shall be deemed to have fully discharged their obligations to each Participating Member when the Settlement Administrator mails each Participating Member a settlement check, regardless of whether such checks are actually received and/or negotiated by Participating Members. Neither Plaintiff, Defendants, nor their respective counsel shall bear any liability for lost or stolen checks, forged signatures

on checks, or unauthorized negotiation of checks. Unless responsible by his, her, or its own acts of omission or commission, the same is true for the Settlement Administrator.

6. **Preliminary Approval.** Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel J. Brown and Jessica Flores of Stansbury Brown Law, PC as Class Counsel;
- C. Appointing Manuel Hernandez Diego as the Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice Packet and directing the mailing of same in English and Spanish;
- G. Scheduling a Final Approval hearing;
- H. Plaintiff shall submit the proposed settlement to the Labor Workforce Development Agency (“LWDA”) pursuant to Labor Code § 2699(1)(2). Proof of this submission will be provided to the Court and to Defendants’ counsel; and
- I. If Final Approval is granted, Plaintiff shall submit a copy of the Superior Court’s judgment to the LWDA after entry of the judgment or order, pursuant to Labor Code § 2699(1)(3).

7. **Notice Procedures.** Following preliminary approval, Settlement Class Members and Aggrieved Employees shall be notified as follows:

- A. Within twenty one (21) days after entry of an order preliminarily approving this Settlement Agreement, Defendants will provide the Settlement Administrator with a class list (in electronic format) including the full names, last known addresses, social security numbers, dates of employment, Class Workweeks and PAGA Pay Periods for each Aggrieved Employee and Settlement Class Member. To protect Class Members’ privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement.

- B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members and Aggrieved Employees through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members and Aggrieved Employees; (ii) update the addresses of any Settlement Class Member or Aggrieved Employee for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet to each Settlement Class Member or Aggrieved Employee in English and Spanish at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member or Aggrieved Employee immediately, and in any event within three (3) business days of obtaining the updated address.
- D. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail or fax a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
- i. The Request for Exclusion must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3) be signed by the Settlement Class Member; and (4) be faxed or postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion fails to comply with items (1), (2), or (4), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion not containing a Settlement Class Member’s telephone number will be deemed valid. The date of the postmark on the Request for Exclusion, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to their share of the PAGA Amount) or have any right to object, intervene, appeal, or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion is automatically deemed a Participating Settlement Class Member.

- E. **Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendants' counsel as well as filing them with the Court). Defendants' counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendants' counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class Member's full name and current address; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) objections must be postmarked on or before the Response Deadline.
- F. **Challenges to Participating Member Payment Calculations.** Each Notice Packet mailed to a Settlement Class Member or Aggrieved Employee shall disclose the amount of the Settlement Class Member's or Aggrieved Employee's estimated Participating Member Payment as well as all of the information that was used from Defendants' records in order to calculate the Participating Member Payment, including the number of Class Workweeks and the number of PAGA Pay Periods. Settlement Class Members and Aggrieved Employees will have the opportunity, should they disagree with Defendants' records regarding the number of Class Workweeks and PAGA Pay Periods stated in their Notice Packet, to challenge the data provided. In order to challenge Defendants' data, the Settlement Class Member or Aggrieved Employee must provide documentation and/or an explanation demonstrating that Defendants' data is incorrect and evidencing the correct number of Class Workweeks and/or PAGA Pay Periods that the Settlement Class Member or Aggrieved Employee believes they should have been credited with and/or evidence of the correct date their employment ended. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.
- G. **Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's or Aggrieved Employee's Participating Member Payment, the allocation of W-2 wages, and the number of Class Workweeks and PAGA Pay Periods. Where the information submitted by Defendants from their records differ from the information submitted by the Settlement Class Member or Aggrieved Employee, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and Defendants' counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will finally determine the eligibility for an amount of any Participating Member Payment. Such determination

shall be binding upon the Settlement Class Member, Aggrieved Employee, and the Parties.

8. **Final Approval Process.** Following preliminary approval and the close of the Response Deadline under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
 - A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
 - B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Class Representative Service Award, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the PAGA Penalties; and
 - C. Entering judgment pursuant to California Rule of Court 3.769.
9. **Non-Admission.** Defendants deny that they have engaged in any unlawful activity, that they have failed to comply with the law in any respect, that they have any liability to anyone under the claims asserted in the Action, and that but for this settlement a class should not be certified in this Action. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendants. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code section 1152.
10. **No Public Comment:** The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount or terms of the Settlement.
11. **No Solicitation.** The Parties agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this section shall be construed to restrict the Parties' or their respective counsel's ability to communicate with Class Members for purposes of informing them about this Settlement and its procedures.
12. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties or their representatives, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.
13. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at

the addresses of the Parties' representatives set forth below, or such other addresses as the Parties may designate in writing from time to time:

If to Defendants JMFS,
OCSCA or JJM:

Ian B. Wieland, Esq.
David G. Litman, Esq.
SAGASER, WATKINS & WIELAND PC
5260 North Palm Avenue, Suite 400
Fresno, CA 93704
ian@sw2law.com
david@sw2law.com

If to Plaintiff:

Daniel J. Brown, Esq.
Jessica Flores, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
dbrown@stansburybrownlaw.com
jflores@stansburybrownlaw.com

14. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.
15. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.
16. **Failure to Obtain Final Approval.** If the court fails to grant either preliminary or final approval, the Parties shall be restored to their positions at the time of the execution of this memorandum, which shall include but not be limited to, all funds paid by Defendants shall be returned to Defendants, with the exception that if any settlement administration costs are due and payable, Plaintiff and Defendants agree to split those costs.
17. **Attorneys' Fees, Costs and Expenses.** Except as specifically set forth herein, each of the Parties shall bear its/his/his own attorneys' fees, costs and expenses, taxable or otherwise, incurred by him/his/it/them arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Stipulation.
18. **Enforceability.** The Parties agree that upon approval by the Court, this Settlement shall be enforceable by the Court, and the Court shall retain exclusive and continuing equity jurisdiction of this action over all Parties to interpret and enforce the terms, conditions and obligations set forth in this Settlement. The Parties agree that if any provision of this Settlement is determined to be invalid, the invalid portion shall be deemed severed and the remaining Settlement deemed enforceable, which the Parties shall cooperate to effectuate. The

Parties intend for this Agreement to be enforceable pursuant to Code of Civil Procedure Section 664.6.

19. **No Prior Assignments.** The Parties separately represent 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 by the Party in this Settlement.
20. **No Tax Advice.** Plaintiff, Class Counsel, Defendants, and Defense Counsel are not providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
21. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
22. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
23. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
24. **Use and Return of Class Data.** Information provided to Class Counsel pursuant to California Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Effective Date, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendants.
25. **Calendar Days.** Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or legal holiday, such date or deadline shall be on the first business day thereafter.

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[SIGNATURES ON FOLLOWING PAGE]

EXECUTION BY PARTIES AND COUNSEL

Date: 04.26.24

Manuel Hernández

Manuel Hernandez Diego, Plaintiff

Date: _____

_____, on behalf of
Defendant James Marshall Farm Service,
LLC

Date: _____

_____, on behalf of
Defendant Orange Cove-Sanger Citrus
Association

Date: _____

_____, on behalf of
Defendant James J. Marshall dba Marshall
Vineyards

Approved as to form:

Date: _____

SAGASER, WATKINS & WIELAND PC

Ian B. Wieland
Counsel for Defendants

Date: April 29, 2024

STANSBURY BROWN LAW, PC

DB

Daniel J. Brown
Counsel for Plaintiff and the Settlement
Class

EXECUTION BY PARTIES AND COUNSEL

Date: _____

Manuel Hernandez Diego, Plaintiff

Date: 04/26/2024

, on behalf of
Defendant James Marshall Farm Service,
LLC

Date: 5/1/2024

, on behalf of
Defendant Orange Cove-Sanger Citrus
Association

Date: 04/26/2024

, on behalf of
Defendant James J. Marshall dba Marshall
Vineyards

Approved as to form:

Date: 5/3/24

SAGASER, WATKINS & WIELAND PC

Ian B. Wieland
Counsel for Defendants

Date: _____

STANSBURY BROWN LAW, PC

Daniel J. Brown
Counsel for Plaintiff and the Settlement
Class