

SETTLEMENT AGREEMENT OF CLASS ACTION AND PRIVATE
ATTORNEYS GENERAL ACT CLAIMS

This Settlement Agreement of Class Action and Private Attorneys General Act Claims (“Settlement” or “Settlement Agreement”) is made between Plaintiff Martha S. Tapia (“Plaintiff”), as an individual and on behalf of all other similarly situated and alleged aggrieved employees, on the one hand, and Defendant DAOU Vineyards, LLC (“Defendant” or “DAOU”) on the other hand (collectively, the “Parties” and individually, a “Party”).

I. DEFINITIONS

A. “Class Counsel” means Kane Moon, Esq., Lilit Ter-Astvatsatryan, Esq., and Holly Williams, Esq. of Moon Law Group, PC, 725 S. Figueroa St., 31st Floor, Los Angeles, California 90017.

B. “Class Member Payments” means the amount payable from the Class Payout Fund to each Settlement Class Member, 80% of which shall be allocated to penalties and other non-wage recovery and 20% of which shall be allocated to wages. Class Member Payments are separate and distinct from PAGA Payments (defined below) that will be paid to PAGA Aggrieved Employees.

C. “Class Payout Fund” means all funds remaining from the Gross Settlement Amount after deducting the Court-awarded Named Plaintiff Enhancement Payment, Fees Award, Costs Award, Settlement Administration Costs, and PAGA Payments.

D. “Class Period” means the time period from May 25, 2019 through the date of Preliminary Approval.

E. “Costs Award” means costs of litigation approved by the Court for Class Counsel’s reasonable costs incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the Settlement, including anticipated costs incurred through Final Approval and disbursement of payments under this Settlement Agreement and obtaining entry of the judgment terminating the Lawsuit.

1 **F.** “Court” means the Superior Court of the State of California, County of
2 San Luis Obispo, located at the 901 Park Street, Paso Robles, CA, 93446.

3 **G.** “Defendant’s Counsel” means Patricia M. Jeng of Sheppard, Mullin,
4 Richter & Hampton LLP, Four Embarcadero Center, 17th Floor, San Francisco, CA
5 94111.

6 **H.** “Effective Date” means the date by which the final judgment becomes
7 final. For purposes of this Settlement Agreement, the final judgment “becomes final”
8 only after the Court grants the motion for final approval of the settlement and upon
9 the latter of (i) the period for filing any appeal, rehearing, writ, or other appellate
10 proceeding challenging or opposing the Settlement has elapsed without any appeal,
11 writ, or other appellate proceeding having been filed; (ii) any appeal, rehearing, writ
12 or other appellate proceeding challenging or opposing the Settlement has been
13 dismissed finally and conclusively with no right to pursue further remedies or relief
14 and without impacting this Settlement; or (iii) any appeal, rehearing, writ or other
15 appellate proceeding has upheld the Court’s final order with no right to pursue further
16 remedies or relief. In this regard, it is the intention of the parties that the Settlement
17 shall not become effective, and Defendant will not be obligated to fund this
18 Settlement, until the Court’s order approving the Settlement is completely final, and
19 there is no further recourse by an appellant, objector, intervenor, or otherwise by
20 anyone who seeks to contest the Settlement.

21 **I.** “Fees Award” means attorneys’ fees approved by the Court for Class
22 Counsel’s fees incurred in investigation, litigation, and resolution of the Lawsuit, and
23 administration of the Settlement, including anticipated fees incurred through Final
24 Approval and disbursement of payments under this Settlement Agreement and
25 obtaining entry of the judgment terminating the Lawsuit, and which shall not exceed
26 33.33% of the Gross Settlement Amount, i.e. up to \$99,990.00.

27 **J.** “Final Approval” means the Court’s order granting final approval of the
28 Settlement Agreement.

1 **K.** “Gross Settlement Amount” means a non-reversionary common fund
2 that shall have a total all-in value of \$300,000.00 and includes without limitation any
3 and all payments Defendant may be responsible for under the Settlement, including
4 any Fees Award and Costs Award to Class Counsel, Named Plaintiff Enhancement
5 Payment, the Class Member Payments, the PAGA Payments (which includes
6 payments to the LWDA), Settlement Administration Costs, and all employee payroll
7 taxes due and owing as a result of the Settlement. The total amount that Defendant
8 shall pay for any and all purposes under this Settlement Agreement is the Gross
9 Settlement Amount.

10 **L.** “Lawsuit” means the action entitled *Martha S. Tapia v. DAOU*
11 *Vineyards, LLC*, Case No. 23CVP-0172, pending in the Superior Court of California,
12 County of San Luis Obispo, filed on May 25, 2023.

13 **M.** “LWDA” means the California Labor and Workforce Development
14 Agency.

15 **N.** “Named Plaintiff” means Martha S. Tapia.

16 **O.** “Named Plaintiff Enhancement Payment” means the amount to be paid
17 to the Named Plaintiff for their time and effort spent pursuing the Lawsuit; and for
18 the risks associated with suing Defendant, not to exceed \$5,000.00.

19 **P.** “PAGA” means the California Private Attorneys General Act, California
20 Labor Code §§ 2699 *et seq.*

21 **Q.** “PAGA Aggrieved Employees” means all current and former non-
22 exempt employees who have been employed by Defendant in California during the
23 PAGA Period.

24 **R.** “PAGA Aggrieved Employee List” means the list of all PAGA
25 Aggrieved Employees that Defendant will diligently and in good faith compile from
26 its records to accurately reflect employees’ names, last known mailing address, Social
27 Security number, and pay periods worked by the PAGA Aggrieved Employees during
28 the PAGA Period.

1 S. “PAGA Payment” means the \$20,000.00 payment to the State of
2 California LWDA and the PAGA Aggrieved Employees in settlement of all claims
3 for PAGA penalties as defined in this Settlement Agreement.

4 T. “PAGA Period” means the time period beginning June 23, 2022 through
5 the date of Preliminary Approval.

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

8 V. “Released Parties” means Defendant, and each of its past, present and
9 future agents, employees, servants, owners, officers, directors, partners, trustees,
10 representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity
11 sponsors, related companies/corporations and/or partnerships (defined as a
12 company/corporation and/or partnership that is, directly or indirectly, under common
13 control with Defendant or any of its parents and/or affiliates), divisions, assigns,
14 predecessors, successors, insurers, consultants, joint ventures, any actual or alleged
15 joint employers, affiliates, and alter-egos, and all of their respective past, present and
16 future employees, directors, officers, agents, owners, attorneys, insurers,
17 stockholders, fiduciaries, parents, subsidiaries, and assigns.

18 W. “Settlement Administration Costs” means the costs payable from the
19 Gross Settlement Amount to the Settlement Administrator for administering this
20 Settlement, including, but not limited to, the Settlement Administrator’s
21 responsibilities outlined in this Settlement Agreement.

22 X. “Settlement Administrator” means Simpluris, whom the Parties mutually
23 agree shall be responsible for the administration of the Settlement, distribution of
24 amounts owed under this Settlement, and matters necessarily related thereto, pursuant
25 to the terms of this Settlement Agreement.

26 Y. “Settlement Class” means all current and former non-exempt employees
27 who have been employed by Defendant in California during the Class Period.
28

1 **Z.** “Settlement Class Members” means individuals in the Settlement Class
2 who do not submit a timely and valid request for exclusion from the Settlement Class.

3 **AA.** “Settlement Class Member List” means the list of all Settlement Class
4 Members that Defendant will diligently and in good faith compile from its records to
5 accurately reflect employees’ names, last known mailing address, Social Security
6 number, and workweeks worked during the Class Period.

7 **II. RECITALS**

8 **A. Background and Procedural History**

9 1. Plaintiff Martha S. Tapia filed a class action on May 25, 2023, in
10 the San Luis Obispo Superior Court entitled *Martha S. Tapia v. DAOU Vineyards,*
11 *LLC*, Case No. 23CVP-0172, alleging the following causes of action: (1) Failure to
12 Pay Minimum Wages; (2) Failure to Pay Overtime Compensation; (3) Failure to
13 Provide Meal Periods; (4) Failure to Authorize and Permit Rest Breaks; (5) Failure to
14 Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Final Wages at
15 Termination; (7) Failure to Provide Accurate Itemized Wage Statements; and (8)
16 Violation of Unfair Competition Law. Defendant answered the Complaint on July
17 14, 2023.

18 2. Plaintiff subsequently filed the operative First Amended
19 Complaint (“FAC”) on October 26, 2023, adding a cause of action for civil penalties
20 under the California Private Attorneys General Act (“PAGA”). Defendant answered
21 the FAC on November 28, 2023.

22 3. The Parties attended a full-day mediation with mediator Tripper
23 Ortman on May 23, 2024. Mr. Ortman issued a mediator’s proposal for an all-in
24 inclusive settlement of the Lawsuit in the amount of \$300,000.00. The Parties
25 accepted the mediator’s proposal.

26 4. Investigation in the Lawsuit. The Parties conducted a significant
27 investigation of the facts and law during the prosecution of the Lawsuit. Such
28 investigation has included, *inter alia*, informally exchanging documents and

1 information for settlement purposes, including in connection with mediation.
2 Counsel for the Parties investigated the applicable law as applied to the facts
3 discovered regarding Plaintiff's alleged claims and potential defenses thereto, and the
4 damages claimed by Plaintiff. The Named Plaintiff alleges in the Lawsuit that, *inter*
5 *alia*, Defendant failed to pay them and similarly situated employees for off-the-clock
6 work, including without limitation for time spend undergoing COVID screening or
7 time clocking in at the jobsite; failed to provide Plaintiff and similarly situated
8 employees compliant meal and/or rest periods or premium pay for meal/rest periods
9 that were unprovided; failed to pay minimum and overtime rates for all hours worked;
10 failed to provide accurate wage statements or to pay final wages upon termination;
11 and failed to reimburse for necessary business expenses. For these allegedly improper
12 actions, Named Plaintiff demands various amounts for wages, penalties, interest,
13 attorneys' fees, and restitution. Named Plaintiff has fully investigated the factual and
14 legal bases for the causes of action asserted in the Lawsuit. As a result of their
15 investigation, Named Plaintiff continues to believe that Defendant failed to properly
16 compensate its non-exempt employees in California for all time worked and failed to
17 properly provide meal and rest periods, to reimburse expenses, to pay timely wages
18 at separation, and to provide accurate itemized wage statements. Defendant has
19 denied all allegations. Defendant contends that it fully paid for all hours worked,
20 including any overtime or double time hours worked. Defendant further contends that
21 it provided all meal and rest periods and/or premium pay in accordance with
22 California law and that it properly reimbursed its employees for all business expenses
23 and provided accurate and itemized wage statements, and all final wages upon
24 termination. Given the disagreement between the Parties as to the viability of these
25 claims, the Parties believe the Settlement provided for herein is a fair, adequate and
26 reasonable settlement.

27 5. Benefits of Settlement to Class Members. Named Plaintiff
28 recognizes the expense and length of continued proceedings necessary to continue the

1 litigation against Defendant through trial and through any possible appeals. Named
2 Plaintiff has also taken into account the uncertainty and risk of the outcome of further
3 litigation, and the difficulties and delays inherent in such litigation. Named Plaintiff
4 is also aware of the burdens of proof necessary to establish liability for the claims
5 asserted in the Lawsuit, Defendant's defenses thereto, and the difficulties in
6 establishing damages. Named Plaintiff has also taken into account the extensive
7 investigation and informal discovery undertaken and settlement negotiations
8 conducted, which negotiations resulted in the material settlement terms set forth
9 herein. Based on the foregoing, Named Plaintiff has determined that the Settlement
10 set forth in this Agreement is a fair, adequate and reasonable settlement, and is in the
11 best interests of the Settlement Class and the LWDA.

12 6. Defendant's Reasons for Settlement. Defendant has concluded
13 that any further defense of this litigation would be protracted and expensive for all
14 Parties. Defendant has devoted substantial amounts of time, energy and resources to
15 the defense of the claims asserted by Named Plaintiff and, unless this Settlement is
16 made, will continue to do so for the foreseeable future. For these reasons, Defendant
17 has agreed to settle the matter upon the terms set forth in this Agreement, to put to
18 rest the claims as set forth in the Lawsuit.

19 7. Defendant's Denials of Wrongdoing. Defendant has denied and
20 continues to deny each of the claims and contentions alleged by Named Plaintiff in
21 the Lawsuit. Defendant has repeatedly asserted and continues to assert defenses
22 thereto, and has expressly denied and continues to deny any wrongdoing or legal
23 liability arising out of any of the facts or conduct alleged in the Lawsuit. Neither this
24 Settlement Agreement, nor any document referred to or contemplated herein, nor any
25 action taken to carry out this Settlement Agreement, is, may be construed as, or may
26 be used as an admission, concession, or indication by or against Defendant or any of
27 the Released Parties of any fault, wrongdoing or liability whatsoever.
28

1 8. Named Plaintiff's Claims. Named Plaintiff claimed and continues
2 to claim that the Released Claims have merit and give rise to liability on the part of
3 Defendant. Neither this Agreement nor any documents referred to herein, or any
4 action taken to carry out this Agreement is or may be construed as or may be used as
5 an admission by or against Named Plaintiff or Class Counsel as to the merits or lack
6 thereof of the claims asserted.

7 **I.** The Parties stipulate, subject to the approval of the Court, that the
8 Lawsuit is being compromised and settled pursuant to the terms and conditions set
9 forth in this Settlement Agreement. Upon Final Approval of the Settlement by the
10 Court at or after the Final Approval hearing, the Parties shall present a Proposed Final
11 Judgment to the Court for its approval, requesting that the Court enter judgment and
12 retain jurisdiction with respect to the interpretation, implementation, and enforcement
13 of the terms of this Settlement Agreement and all orders and judgments entered in
14 connection therewith.

15 **III. SETTLEMENT TERMS**

16 **A. Conditional Certification**

17 For the purposes of this Settlement Agreement only, the Parties agree to the
18 certification of the Settlement Class. If, for any reason, the Settlement Agreement is
19 not approved, the stipulation to certification will be void. Should the Settlement
20 Agreement not become final, for whatever reason, the fact that the Parties were
21 willing to stipulate to class certification as part of the Settlement shall have no bearing
22 on, and shall not be admissible in connection with, the issue of whether a class should
23 be certified in a non-settlement context in the Lawsuit, and shall have no bearing on,
24 and shall not be admissible in connection with, the issue of whether a class should be
25 certified in any other lawsuit.

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

27 1. Gross Settlement Amount. Provided the Court approves the
28 Settlement and the Effective Date occurs, Defendant will pay the Gross Settlement

1 Amount, which is the maximum monetary amount payable by Defendant and which
2 shall not exceed the all-inclusive sum of \$300,000.00.

3 2. Settlement Accounting. No more than fourteen (14) calendar days
4 after the Effective Date, or at a reasonable time thereafter if not reasonably
5 practicable, the Settlement Administrator will provide the Parties with an accounting
6 of all anticipated payments from the Qualified Settlement Account, including: (a)
7 Class Member Payments, (b) the PAGA Payments; (c) the Named Plaintiff
8 Enhancement Payment; (d) the Fees Award and Costs Award to Class Counsel, and
9 (f) Settlement Administration Expenses, all as specified in this Settlement Agreement
10 and approved by the Court.

11 3. Funding the Settlement. Within sixty (60) calendar days after
12 receipt of the Settlement Accounting from the Settlement Administrator, and solely
13 for purposes of this Settlement, Defendant shall wire transfer or send by ACH/ETF
14 (at the Defendant's election) the Gross Settlement Amount into the Qualified
15 Settlement Account, for distribution in accordance with the terms of this Settlement
16 Agreement (the "Funding"), provided that the Settlement Administrator has provided
17 any tax and payment forms necessary to wire the Gross Settlement Amount into the
18 Qualified Settlement Account, including a set of bank account payment instructions
19 on Settlement Administrator letterhead. At no time shall Defendant have the
20 obligation to segregate the funds comprising the Gross Settlement Amount from other
21 assets and will retain exclusive authority over, and responsibility for, those funds until
22 the date those amounts are required to be funded pursuant to this Settlement
23 Agreement.

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

25 1. Named Plaintiff Enhancement Payment. The Settlement
26 Administrator shall pay any Named Plaintiff Enhancement Payment within twenty-
27 one (21) calendar days of the Funding either by check or wire to an account(s)
28 designated by Class Counsel. Named Plaintiff agrees to provide the Settlement

1 Administrator with an executed IRS Form W-9 within five days after the Effective
2 Date and before the Named Plaintiff Enhancement Payments is issued. The
3 Settlement Administrator shall issue an IRS Form 1099 to Named Plaintiff for their
4 payment. Named Plaintiff shall be solely and legally responsible for paying any and
5 all applicable taxes on Named Plaintiff's Enhancement Payment and shall hold
6 Released Parties harmless from any claim or liability for taxes, penalties or interest
7 arising as a result of the Named Plaintiff's Enhancement Payment. The Named
8 Plaintiff's Enhancement Payment shall be in addition to any Class Member Payment
9 or PAGA Payment the Named Plaintiff receives as a Settlement Class Member and
10 PAGA Aggrieved Employee. If the Court awards a Named Plaintiff Enhancement
11 Payment less than the amount specified, the unawarded amounts shall remain in the
12 Class Payout Fund and be distributed to Settlement Class Members.

13 2. Named Plaintiff's Individual Settlement. As a condition of this
14 Settlement, Named Plaintiff has agreed to enter into a general release of all claims,
15 including a waiver of rights under California Civil Code section 1542, separate and
16 apart from this Settlement Agreement, in exchange for a payment of \$10,000.00,
17 separate and apart from the Gross Settlement Amount ("Named Plaintiff's Individual
18 Settlement"). Named Plaintiff's Individual Settlement is a material term of his
19 Agreement.

20 3. Class Counsel's Attorneys' Fees and Costs. Class Counsel may
21 request a Fees Award of 33.33% of the Gross Settlement Amount (i.e., \$99,990.00)
22 and will seek a Costs Award for reimbursement of Class Counsel's out-of-pocket
23 costs incurred pursuing the Lawsuit of not more than \$22,000.00. Plaintiff and/or
24 Class Counsel will file a motion for Class Counsel's Fees Award and Costs Award
25 no later than 16 court days prior to the Final Approval Hearing. If the Court approved
26 a Class Counsel Fees Award and/or a Class Counsel Costs Award payment less than
27 the amounts requested, the Administrator will allocate the remainder to the Net
28 Settlement Amount. Defendant reserves the right to challenge Class Counsel's

1 requests for Fees Award and Costs Award if Defendant deems it appropriate after
2 reviewing Class Counsel's motion.

3 a. The Settlement Administrator shall pay the Fees Award and
4 Costs Award within twenty-one (21) calendar days of the Funding either by check or
5 wire to an account designated by Class Counsel. Class Counsel agrees to provide the
6 Settlement Administrator with an executed IRS Form W-9 within five days after the
7 Effective Date and before payments for Class Counsel's Fees Award and Costs Award
8 are issued. The Settlement Administrator shall issue an IRS Form 1099 to Class
9 Counsel for the payments made pursuant to this section. Class Counsel shall be solely
10 and legally responsible for paying any and all applicable taxes on their Fees Award
11 and Costs Award and shall hold Released Parties harmless from any claim or liability
12 for taxes, penalties or interest arising as a result of any payments received by Class
13 Counsel pursuant to this Settlement. If the Court awards a Fees Award or a Costs
14 Award less than the amount requested by Class Counsel, the unawarded amounts shall
15 remain in the Class Payout Fund and be distributed to Settlement Class Members.
16 This Settlement is not contingent upon the Court awarding Class Counsel any
17 particular amount in Fees Award or Costs Award.

18 b. Neither Class Counsel nor any other current or past counsel
19 for Named Plaintiff shall be permitted to petition the Court for, or accept, any
20 additional payments for fees, costs, or interest, and the Fees Award and Costs Award
21 shall be for all claims for attorneys' fees and costs whenever incurred, including past,
22 present and future fees and costs incurred in connection with or arising out of the
23 Lawsuit to date and through and including the Effective Date, as well as final
24 distribution of all payments under this Settlement Agreement and through and after
25 final judgment. The payment of the Fees Award and Costs Award to Class Counsel
26 as set forth herein shall constitute full satisfaction of the obligation to pay any amounts
27 to any person, attorney or law firm for attorneys' fees, expenses or costs arising out
28 of and/or in connection with the Lawsuit incurred by any attorney on behalf of Named

1 Plaintiff, any of the Class Settlement Members, and/or PAGA Aggrieved Employees,
2 and shall relieve Class Settlement Members, PAGA Aggrieved Employees, Released
3 Parties, the Settlement Administrator, the Qualified Settlement Account, and
4 Defendant's Counsel of any other claims or liability to any other attorney or law firm
5 for any attorneys' fees, expenses and/or costs to which any of them may claim to be
6 entitled on behalf of Named Plaintiff, the Class Settlement Members, and/or PAGA
7 Aggrieved Employees in connection with the claims released in this Settlement.

8 4. PAGA Payment. The PAGA Payment amount is \$20,000.00,
9 which the Parties have agreed is to be paid in settlement of all PAGA claims released
10 in this Settlement Agreement, which shall be allocated as follows. Within twenty-
11 one (21) calendar days of the Funding, the Settlement Administrator shall pay from
12 the Qualified Settlement Account:

13 a. \$15,000.00 to the State of California LWDA, representing
14 75% of the \$20,000.00 PAGA Payment.

15 b. the remaining 25% of the PAGA Payment (\$5,000.00) shall
16 be distributed to all PAGA Aggrieved Employees, with each receiving a pro rata share
17 based on the number of pay periods worked during the PAGA Period. To establish
18 the pay period value, the Settlement Administrator will first determine the total
19 number of pay periods worked by the PAGA Aggrieved Employees during the PAGA
20 Period. The pay period value will be equal to 25% of the PAGA Payment divided by
21 the total number of pay periods worked by PAGA Aggrieved Employees during the
22 PAGA Period. The pay periods value will be rounded to the nearest cent. The amount
23 of the PAGA Payment to be paid to each PAGA Aggrieved Employee will be
24 determined by multiplying the pay periods value by the total number of pay periods
25 each PAGA Aggrieved Employee worked during the PAGA Period. PAGA
26 Aggrieved Employees will receive their PAGA Payment even if they request
27 exclusion from the Settlement Class.

1 c. The portion of the PAGA Payment paid to the PAGA
2 Aggrieved Employees shall be treated entirely as penalties. In the event that the Court
3 awards less than the full amount requested for the PAGA Payment, the un-awarded
4 amount shall remain in the Class Payout Fund and be distributed to Settlement Class
5 Members. If for any reason additional funds are allocated to the PAGA Payment,
6 such monies shall be drawn from other amounts in this Settlement with the other
7 components of the Gross Settlement Amount being reduced proportionately,
8 including the Fees Award and the Class Payout Fund, but the Gross Settlement
9 Amount will not exceed \$300,000.00.

10 5. Settlement Administration Costs. The Settlement Administrator
11 shall pay from the Qualified Settlement Account the Court-approved Settlement
12 Administration Costs, within twenty-one (21) calendar days of the Funding, in an
13 amount not to exceed \$7,000.00. In the event that the Court awards less than the full
14 amount requested for Settlement Administration Costs, the unawarded amounts shall
15 remain in the Class Payout Fund and shall be distributed to Settlement Class
16 Members.

17 6. Calculation of Class Member Payments. All Settlement Class
18 Members will receive a Class Member Payment, paid from the Class Payout Fund
19 without the need to make a claim. The Parties agree that 80% of the Class Member
20 Payments shall be allocated to penalties and 20% of the Class Member Payments shall
21 be allocated to wages.

22 a. The amount of each Class Member Payment will be
23 calculated on a pro rata basis, based on the number of workweeks each Settlement
24 Class Member worked during the Class Period. To establish the workweek value, the
25 Settlement Administrator will first determine the total number of workweeks worked
26 by the Settlement Class Members during the Class Period. The workweek value will
27 be equal to the Class Payout Fund divided by the total number of workweeks worked
28 by Settlement Class Members during the Class Period. The workweek value will be

1 rounded to the nearest cent. The Class Member Payment to each Settlement Class
2 Member will be determined by multiplying the workweek value by the total number
3 of workweeks each Settlement Class Members worked during the Class Period. The
4 total of all Class Member Payments to all Settlement Class Members shall equal the
5 Class Payout Fund. Settlement Class Members do not need to submit a claim form in
6 order to be eligible for and to receive a Class Member Payment. Any partial
7 workweek will be rounded up to the nearest workweek period. Class Member
8 Payments will be reduced by any required deductions for each Settlement Class
9 Member.

10 7. Method and Timing of Payments to Settlement Class Members
11 and PAGA Aggrieved Employees.

12 a. Class Member Payments and the PAGA Aggrieved
13 Employees' portion of the PAGA Payment will be mailed by the Settlement
14 Administrator by First Class U.S. Mail within twenty-one (21) calendar days
15 following the Funding.

16 b. Checks paid to PAGA Aggrieved Employees and
17 Settlement Class Members shall remain valid and negotiable for 180 days from the
18 date of their issuance. After one-hundred eighty (180) calendar days from the date of
19 mailing, the checks shall become null and void, and any monies remaining in the
20 distribution account shall be distributed to the Controller of the State of California to
21 be held pursuant to the Unclaimed Property Law, California Civil Code §§ 1500 *et*
22 *seq.*, for the benefit of those Settlement Class Members and PAGA Aggrieved
23 Employees who did not cash their checks until such time that they claim their
24 property. The Parties agree that this disposition results in no "unpaid residue" under
25 California Civil Procedure Code § 384, as the entire Class Payout Fund will be paid
26 out to Class Members, whether or not they all cash their Class Member Payments.
27 Therefore, Defendant will not be required to pay any interest on said amount.

28 8. No Effect on Employee Benefits. The Named Plaintiff

1 Enhancement Payments, Class Member Payments, and PAGA Payments paid to
2 Named Plaintiff, PAGA Aggrieved Employees, and Settlement Class Members shall
3 be deemed not to be pensionable earnings and shall not have any effect on the
4 eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay,
5 retirement plans, etc.) of the respective Named Plaintiff, PAGA Aggrieved
6 Employees, or Settlement Class Members. The Parties agree that any Named Plaintiff
7 Enhancement Payment, Class Member Payments, and PAGA Payments paid to
8 Named Plaintiff, Settlement Class Members, and PAGA Aggrieved Employees under
9 the terms of this Settlement Agreement do not represent any modification of Named
10 Plaintiff's, Settlement Class Members', or PAGA Aggrieved Employees' previously
11 credited hours of service or other eligibility criteria under any employee pension
12 benefit plan or employee welfare benefit plan sponsored by Defendant or any of the
13 Released Parties. Further, any Named Plaintiff Enhancement Payment, Class Member
14 Payments, or PAGA Payments shall not be considered "compensation" in any year
15 for purposes of determining eligibility for, or benefit accrual within, an employee
16 pension benefit plan or employee welfare benefit plan sponsored by Defendant or any
17 of the Released Parties.

18 **D. Taxation**

19 1. Tax Treatment of Class Member Payments. Each Class Member
20 Payment shall be allocated between taxable and non-taxable consideration as follows:
21 20% will be allocated to alleged unpaid wages for which an IRS Form W-2 will issue,
22 and 80% will be allocated to alleged penalties, reimbursement of expenses and interest
23 for which an IRS Form 1099 will issue, if required by law. The Settlement
24 Administrator will be responsible for calculating the employee-side taxes owed on the
25 wage portion of each Class Member Payment and deducting and paying these
26 amounts to the appropriate state and federal agencies, within the timing required by
27 applicable state and federal law. Each Settlement Class Member shall be responsible
28 for ensuring that any employee-side taxes due on his or her settlement are paid.

1 2. Tax Treatment of PAGA Payments. The PAGA Payment
2 distributed to each PAGA Aggrieved Employee will be treated entirely as civil
3 penalties, and will be reported as such to each PAGA Aggrieved Employee on an IRS
4 Form 1099 misc., if required by law.

5 3. Tax Liability. The Parties make no representation as to the tax
6 treatment or legal effect of the payments called for hereunder, and the Parties,
7 Settlement Class Members, and PAGA Aggrieved Employees are not relying on any
8 statement, representation, or calculation by any of the Parties or by the Settlement
9 Administrator in this regard. Named Plaintiff, Settlement Class Members, and PAGA
10 Aggrieved Employees understand and agree that except for the employer's portion of
11 any payroll taxes, Named Plaintiff, Settlement Class Members, and PAGA Aggrieved
12 Employees will be solely responsible for the payment of any taxes and penalties
13 assessed on the payments described herein. Each Party to this Settlement Agreement
14 (for purposes of this section, the "acknowledging party" and each party to this
15 agreement other than the acknowledging party, an "other party") acknowledges and
16 agrees that (1) no provision of this Settlement Agreement, and no written
17 communication or disclosure between or among the Parties or their attorneys and
18 other advisers, is or was intended to be, nor shall any such communication or
19 disclosure constitute or be construed or be relied upon as, tax advice within the
20 meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as
21 amended); (2) the acknowledging party (a) has relied exclusively upon their own,
22 independent legal and tax counsel for advice (including tax advice) in connection with
23 this Settlement Agreement, (b) has not entered into this Settlement Agreement based
24 upon the recommendation of any other party or any attorney or advisor to any other
25 party, and (c) is not entitled to rely upon any communication or disclosure by any
26 attorney or adviser to any other party to avoid any tax penalty that may be imposed
27 on the acknowledging party; and (3) no attorney or adviser to any other Party has
28 imposed any limitation that protects the confidentiality of any such attorney's or

1 adviser's tax strategies (regardless of whether such limitation is legally binding) upon
2 disclosure by the acknowledging party of the tax treatment or tax structure of any
3 transaction, including any transaction contemplated by this Settlement Agreement.

4 **E. Injunctive Relief**

5 As part of this Settlement, Defendant shall not be required to enter into any
6 consent decree, nor shall Defendant be required to agree to any provision for
7 injunctive relief, or to modify or eliminate any of its personnel, compensation, or
8 payroll practices or policies, or adopt any new personnel, compensation, or payroll
9 practices or policies.

10 **F. Release of Claims**

11 1. Class Member Release. Effective on the date when Defendant
12 fully funds the entire Gross Settlement Amount, all Settlement Class Members fully
13 and finally release the Released Parties from any and all claims that arose during the
14 Class Period based on the facts, factual predicate, theories, transactions or
15 occurrences, and primary rights alleged in the Lawsuit including without limitation
16 for unpaid wages, including, but not limited to, failure to pay minimum wages, failure
17 to pay straight time compensation, overtime compensation, double-time
18 compensation, and/or interest; off-the-clock work, including without limitation for
19 time engaged in COVID screenings, or time spent clocking, or time worked before or
20 after shifts or during breaks; missed, late, short or interrupted meal and/or rest periods
21 or any allegation that meal or rest periods were not provided, including any claim for
22 any alleged failure to pay premiums for missed, late, short or interrupted meal or rest
23 periods, or to pay such premiums at the regular rate of compensation; failure to timely
24 pay all earned wages; reimbursement for business expenses or any other claim that
25 Defendant allowed or required employees to bear any of the costs associated with the
26 operation of Defendant's business, including without limitation the use of personal
27 cell phones or face masks; inaccurate or otherwise improper wage statements and/or
28 failure to keep or maintain accurate records; failure to pay all wages due upon

1 separation of employment and within the required time; unlawful deductions; any
2 claim for unfair business practices arising out of or related to any or all of the
3 aforementioned claims; any claim for penalties arising out of or related to any or all
4 of the aforementioned claims, including, but not limited to, recordkeeping penalties,
5 wage statement penalties, minimum wage penalties, liquidated damages, and waiting
6 time penalties; and attorneys' fees and costs. The claims released by the Settlement
7 Class Members also include any and all claims that arise out of or arise in connection
8 with the claims and facts alleged in the Lawsuit, and any claims which could have
9 been asserted in the Lawsuit arising from the alleged facts, factual predicate, theories,
10 transactions or occurrences, and/or primary rights alleged to have been invaded to the
11 fullest extent permitted by law. This release includes claims alleging a violation of
12 the Wage Orders of the California Industrial Welfare Commission; California
13 Business and Professions Code section 17200, *et seq.*; the California Civil Code
14 sections 3287, 3289, 3336, and 3294; California Code of Civil Procedure section
15 1021.5; and/or alleging a violation of California Labor Code §§ 200, 201, 201.3,
16 201.5, 202, 203, 204, 205.5, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223, 224,
17 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
18 1197.2, 1198, 1198.5, 1199, 2698 *et seq.*, 2800, and 2802.

19 2. Release of PAGA Claims. As of the date Defendant fully funds
20 the entire Gross Settlement Amount, PAGA Aggrieved Employees and the LWDA
21 fully and finally release the Released Parties from all claims under the PAGA
22 associated with any and all claims that arose during the PAGA Period based on the
23 facts, factual predicate, theories, transactions or occurrences, and primary rights
24 alleged in the Lawsuit including without limitation for unpaid wages, including, but
25 not limited to, failure to pay minimum wages, failure to pay straight time
26 compensation, overtime compensation, double-time compensation, and/or interest;
27 off-the-clock work, including without limitation for time engaged in COVID
28 screenings, or time spent clocking, or time worked before or after shifts or during

1 breaks; missed, late, short or interrupted meal and/or rest periods or any allegation
2 that meal or rest periods were not provided, including any claim for any alleged failure
3 to pay premiums for missed, late, short or interrupted meal or rest periods, or to pay
4 such premiums at the regular rate of compensation; failure to timely pay all earned
5 wages; reimbursement for business expenses or any other claim that Defendant
6 allowed or required employees to bear any of the costs associated with the operation
7 of Defendant's business, including without limitation the use of personal cell phones
8 or face masks; inaccurate or otherwise improper wage statements and/or failure to
9 keep or maintain accurate records; failure to pay all wages due upon separation of
10 employment and within the required time; unlawful deductions; any claim for unfair
11 business practices arising out of or related to any or all of the aforementioned claims;
12 any claim for penalties arising out of or related to any or all of the aforementioned
13 claims, including, but not limited to, recordkeeping penalties, wage statement
14 penalties, minimum wage penalties, liquidated damages, and waiting time penalties;
15 and attorneys' fees and costs. The claims released by the PAGA Aggrieved
16 Employees also include any and all claims under the California Private Attorneys
17 General Act of 2004, Cal. Lab. Code § 2698 *et seq.* that arise out of or arise in
18 connection with the claims and facts alleged in the Lawsuit, and any claims which
19 could have been asserted in the Lawsuit arising from the alleged facts, factual
20 predicate, theories, transactions or occurrences, and/or primary rights alleged to have
21 been invaded to the fullest extent permitted by law. This release includes claims
22 under the California Private Attorneys General Act of 2004 alleging a violation of the
23 Wage Orders of the California Industrial Welfare Commission; California Business
24 and Professions Code section 17200, *et seq.*; the California Civil Code sections 3287,
25 3289, 3336, and 3294; California Code of Civil Procedure section 1021.5; and/or
26 alleging a violation of California Labor Code §§ 200, 201, 201.3, 201.5, 202, 203,
27 204, 205.5, 210, 212, 216, 218, 218.5, 218.6, 221, 222.5, 223, 224, 226, 226.3, 226.7,
28

1 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1198.5,
2 1199, 2698 *et seq.*, 2800, and 2802.

3 **G. Settlement Administrator Responsibilities**

4 1. The Settlement Administrator shall be responsible for preparing,
5 printing and mailing to the Settlement Class and the PAGA Aggrieved Employees the
6 Notice of Proposed Settlement of Class Action attached as Exhibit 1 hereto (the “Class
7 Notice”) as directed by the Court; calculating Class Member Payments and PAGA
8 Payments; calculating and withholding all required state and federal taxes owed by
9 the Settlement Class Members, PAGA Aggrieved Employees, and Defendant as
10 described above; keeping track of opt-outs and objections; drafting and mailing
11 checks to Settlement Class Members and PAGA Aggrieved Employees; distributing
12 Named Plaintiff Enhancement Payment, the Fees Award, the Costs Award, 75% of
13 the PAGA Payment to the LWDA, and Settlement Administration Costs; providing
14 weekly status reports to counsel for the Parties; providing a due diligence declaration
15 for submission to the Court prior to the Final Approval hearing and as otherwise
16 required by the Court; and for such other tasks as the Parties mutually agree or the
17 Court orders the Settlement Administrator to perform. The Parties each represent they
18 do not have any financial interest in the Settlement Administrator or otherwise have
19 a relationship with the Settlement Administrator that could create a conflict of interest.

20 2. The Settlement Administrator’s determination of eligibility for,
21 and the amounts of, any Class Member Payment and share of the PAGA Payment
22 shall be conclusive, final and binding on all Parties, including all Settlement Class
23 Members and PAGA Aggrieved Employees. The Settlement Administrator has no
24 power or ability to increase the amount of the Gross Settlement Amount.

25 3. To the extent any tax returns must be filed for the Gross Settlement
26 Amount pursuant to this Settlement Agreement, the Settlement Administrator shall
27 cause to be timely and properly filed all informational and other tax returns, if any,
28 necessary with respect to the Gross Settlement Amount. Such returns shall be

1 consistent with this paragraph. Any expenses and/or costs incurred in connection with
2 the operation and implementation of this paragraph (including, without limitation,
3 reasonable expenses of tax attorneys, accountants or other designees retained by the
4 Settlement Administrator as required for the preparation and filing of tax returns
5 described in this paragraph) shall be treated as, and considered to be, a cost of
6 administration of the Settlement and shall be paid from the Settlement Administration
7 Costs.

8 4. No person shall have any claim against Defendant, the Released
9 Parties, Defendant's Counsel, Named Plaintiff, Class Counsel or the Settlement
10 Administrator based on distributions and payments made in accordance with this
11 Settlement Agreement.

12 **H. Notice/Approval of Settlement and Settlement Implementation.** As
13 part of this Settlement, the Parties agree to the following procedures for obtaining
14 preliminary approval of the Settlement, notifying the Settlement Class and PAGA
15 Aggrieved Employees, obtaining final Court approval of the Settlement, and
16 processing the settlement payments:

17 1. Preliminary Approval of Settlement

18 a. Named Plaintiff shall file a motion for preliminary approval
19 of the Settlement in the Lawsuit within fourteen (14) calendar days of the execution
20 of this Settlement Agreement. Named Plaintiff shall schedule the motion for hearing
21 on the earliest date the Court has available that complies with notice requirements and
22 after conferring with defense counsel to ensure availability. Named Plaintiff shall
23 seek the entry of a Preliminary Approval Order for: (a) conditional certification of the
24 Settlement Class for settlement purposes only, (b) Preliminary Approval of the
25 proposed Settlement Agreement, and (c) setting a date for a Final Approval hearing.

26 b. In conjunction with the Preliminary Approval Hearing,
27 Named Plaintiff will submit this Settlement Agreement, which sets forth the terms of
28 this Settlement, and will include proposed forms of all notices and other documents

1 as attached hereto necessary to implement the Settlement. Simultaneous with the
2 filing of the Settlement Agreement and solely for purposes of this Settlement, Named
3 Plaintiff will request the Court to enter the Preliminary Approval Order (“Preliminary
4 Approval Order” or “Order”), preliminarily approving the proposed Settlement, and
5 setting a hearing date to determine final approval of the Settlement. The Order shall
6 provide for notice of the Settlement and related matters to be sent to Settlement Class
7 Members as specified herein. Class Counsel will be responsible for drafting all
8 documents necessary to obtain Preliminary Approval, subject to review and comment
9 by Defendant’s counsel who shall be provided a minimum of five (5) days to review
10 prior to filing.

11 2. LWDA Notice. Pursuant to the PAGA, concurrently with the
12 filing of the motion for Preliminary Approval, Named Plaintiff will, pursuant to
13 California Labor Code § 2699(*I*), provide notice of the proposed Settlement to the
14 LWDA. The Parties intend and believe that the notice pursuant to the procedures
15 described in this section complies with the requirements of the PAGA.

16 3. Notice to Settlement Class.

17 a. Delivery of the Settlement Class Member and PAGA
18 Aggrieved Employee List. Within thirty (30) calendar days of entry of the
19 Preliminary Approval Order of this Settlement, Defendant will provide the Settlement
20 Class Member List and PAGA Aggrieved Employee List (the “Employee Lists”) to
21 the Settlement Administrator, which shall be used solely for the administration of this
22 Settlement and for no other purpose, and shall not be shared with any persons or entity
23 not employed by the Settlement Administrator and working on the administration of
24 this Settlement. Because sensitive personal information is included in the Employee
25 Lists, the Settlement Administrator shall maintain the Employee Lists securely and in
26 confidence. Access to such Employee Lists shall be limited to employees of the
27 Settlement Administrator with a need to use the Employee Lists for administration of
28 the Settlement. The Employee Lists shall not be disclosed to Class Counsel, the

1 Named Plaintiff, or any other members of the Settlement Class without the written
2 consent of Defendant. In the event that the Settlement Agreement is not finally
3 approved by the Court, or if it is in any way altered or disapproved on appeal, the
4 Settlement Administrator shall not thereafter use the Employee Lists, and shall
5 destroy any and all copies or versions of the Employee Lists (including any in
6 electronic form).

7 b. Notice By First-Class Mail. Within fourteen (14) calendar
8 days after receipt of the Settlement Class Member List, the Settlement Administrator
9 shall mail a class notice to Settlement Class Members via first-class regular U.S. mail
10 (“Class Notice”). Settlement Class Members will have sixty (60) calendar days from
11 the mailing of the Class Notice to opt-out or object to the Class Settlement
12 (“Objection/Exclusion Deadline Date”). Prior to mailing, the Settlement
13 Administrator will perform a search based on the National Change of Address
14 Database information to update and correct for any known or identifiable address
15 changes and, if necessary, perform reasonable skip-tracing efforts to locate
16 employees. If a new address is obtained by way of a returned Class Notice, the
17 Settlement Administrator shall promptly forward the original Class Notice to the
18 updated address via first-class regular U.S. mail indicating on the original Class
19 Notice the date of such re-mailing.

20 c. Notice Satisfies Due Process. Compliance with the notice
21 procedures specified in this Settlement Agreement shall constitute due and sufficient
22 notice to the Settlement Class of this Settlement and shall satisfy the requirements of
23 due process. Nothing else shall be required of, or done by, the Parties, Class Counsel
24 or Defendant’s Counsel to provide notice of the proposed Settlement. In the event
25 that the procedures in this Settlement Agreement are followed and the intended
26 recipient of a Notice of Settlement still does not receive the Notice of Settlement, the
27 intended recipient shall be a Settlement Class Member and will be bound by all the
28

1 terms of the Settlement and the Final Approval entered by the Court if the Settlement
2 becomes effective.

3 4. Objections or Exclusions.

4 a. Procedure for Objecting. The Notice shall provide that
5 individuals in the Settlement Class who wish to object to the Settlement must submit
6 a written statement to the Settlement Administrator objecting to the Settlement no
7 later than the Objection/Exclusion Deadline Date. A written objection must contain
8 a statement in substance explaining that the Settlement Class individual objects to the
9 Settlement Agreement and the reasons for objecting; contain the full name, address,
10 telephone number, and last four digits of the Social Security number of the objecting
11 Settlement Class individual; be signed by the Settlement Class individual; and, be
12 postmarked on or before the Objection/Exclusion Deadline Date. No PAGA
13 Aggrieved Employee may opt out or otherwise be excluded from the PAGA Payment,
14 as no such right exists under the law. Objecting Class Members may send written
15 objections to the Administrator by fax, email, or mail. In the alternative, objecting
16 Class Members may appear in Court (or hire an attorney to appear in Court) to present
17 verbal objections at the Final Approval Hearing; provided, however, that such Class
18 Member submits a written notice of intention to make his or her verbal objection at
19 the Final Approval hearing. A Participating Class Member who elects to send a
20 written objection to the Administrator must do so not later than 60 days after the
21 Administrator's mailing of the Class Notice (plus an additional 14 days for Class
22 Members whose Class Notice was re-mailed). The Parties will be permitted to
23 respond in writing to any objections prior to the Final Approval hearing. Any
24 individual in the Settlement Class who does not timely object in the manner specific
25 above shall be deemed to have waived any objections and shall be foreclosed from
26 making any objection (whether by appeal or otherwise) to the Settlement and shall
27 remain a Settlement Class Member.

1 b. Procedure for Requesting Exclusion. The Class Notice
2 shall provide that individuals in the Settlement Class who wish to exclude themselves
3 from the Settlement Class must timely submit to the Settlement Administrator a
4 personally signed, written statement requesting exclusion from the Settlement Class
5 on or before the Objection/Exclusion Deadline Date. A Request for Exclusion is a
6 letter from a Class Member or his/her representative, personally signed by the Class
7 Member, that reasonably communicates the Class Member's election to be excluded
8 from the Class portion of the Settlement and includes the case title of this action; the
9 Class Member's name, address, and email address or telephone number; and a clear
10 statement indicating that they understand that they will not receive a Class Member
11 Payment, but will still receive a PAGA Payment because they cannot object or
12 exclude themselves from the PAGA Settlement.

13 (1) The date of the postmark on the return mailing envelope
14 shall be the exclusive means used to determine whether a request for exclusion has
15 been timely submitted. If the postmark is illegible then the request for exclusion must
16 arrive within three (3) calendar days after the Objection/Exclusion Deadline Date to
17 be considered timely.

18 (2) Any individual in the Settlement Class who opts out of the
19 Settlement Class will not be entitled to any recovery under the Class Settlement
20 (which refers to claims encompassed by the Class Payout Fund and excludes the
21 PAGA claims) and will not be bound by the Settlement as it relates to the Class
22 Settlement or have any right to object, appeal or comment in court on the Class
23 Settlement. Any and all individuals in the Settlement Class who fail to submit a valid
24 and timely request for exclusion on or before the Objection/Exclusion Deadline Date
25 shall be Settlement Class Members and shall be bound by all terms of the Settlement
26 and any final judgment entered in the Lawsuit if the Settlement is approved by the
27 Court.

1 c. PAGA Aggrieved Employees will not have the opportunity
2 to opt out of, or object to, the PAGA Payment and release of the PAGA claims set
3 forth in this Settlement Agreement.

4 d. No Solicitation of Settlement Objections or Exclusions.
5 The Parties agree to use their best efforts to carry out the terms of this Settlement. At
6 no time shall any of the Parties, or their counsel, seek to directly or indirectly solicit
7 or otherwise encourage the Settlement Class to submit written objections to the
8 Settlement or requests for exclusion from the Class Settlement, or appeal from the
9 Court's final judgment.

10 5. Certification Reports by the Settlement Administrator.

11 a. The Settlement Administrator will, on a weekly basis
12 during and for a reasonable period following distribution of the Class Notice, provide
13 updates to Class Counsel and Defendant's Counsel as to the number of individuals in
14 the Settlement Class who submitted (i) valid opt-out requests for exclusion; and (ii)
15 objections. All written objections shall be provided to the Parties' counsel within five
16 (5) calendar days of receipt by the Settlement Administrator. The Settlement
17 Administrator shall also provide the names of any opt-outs to Defendant's counsel
18 within five (5) calendar days of receipt. To the extent practicable, the weekly updates
19 shall also provide updated data on the number of Class Notices that are returned
20 undeliverable and any re-mailing efforts.

21 b. Within ten (10) calendar days after the Objection/Exclusion
22 Deadline Date, the Settlement Administrator will prepare a declaration to be provided
23 to Class Counsel and Defendant's Counsel for filing in support of Named Plaintiff's
24 motion for final approval attesting to the following: (i) its mailing efforts regarding
25 the Class Notice; (ii) its receipt of any valid and timely requests for exclusion, and its
26 inability to deliver the Class Notice to the Settlement Class, if any; (iii) the number
27 of Settlement Class Members; (iv) the highest estimated Class Member Payment,
28 along with the estimated average Class Member Payment. The Settlement

1 Administrator will also prepare and submit to Class Counsel and Defendant's Counsel
2 for filing in support of the motion any supplemental declaration as may be needed.

3 6. Right of Defendant to Reject Settlement.

4 a. Option to Void Settlement. If, after the
5 Objection/Exclusion Deadline Date, the number of employees in the Settlement Class
6 who have timely submitted requests for exclusion total in number more than three (3)
7 percent of the Settlement Class, Defendant shall have, in its sole discretion, the option
8 to void this Settlement. In order to exercise this option, Defendant must notify Class
9 Counsel in writing within fifteen (15) calendar days after the later of the
10 Objection/Exclusion Deadline Date, or of learning in writing from the Settlement
11 Administrator that the number of individuals in the Settlement Class who have timely
12 submitted requests for exclusion total in number more than three (3) percent of the
13 Settlement Class.

14 b. Escalator Clause. Defendant estimates that there are
15 approximately 23,510 workweeks worked by the Settlement Class from May 25, 2019
16 through May 23, 2024 (the "Estimated Workweeks"). Within fourteen (14) calendar
17 days of receipt of the Employee Lists, the Settlement Administrator shall confirm to
18 all Parties the number of actual workweeks worked by the Settlement Class from May
19 15, 2019 through Preliminary Approval ("Actual Workweeks"). If the number of
20 Actual Workweeks exceeds twelve (12) percent above the Estimated Workweeks (i.e.
21 if there are 26,332 or more Actual Workweeks), Defendant has the option of agreeing
22 to either: 1) increase the Gross Settlement Amount on a proportional basis by the
23 amount by which it exceeds twelve (12) percent) (i.e. if there is a thirteen (13) percent
24 increase in the number of workweeks during the Class Period, Defendant would agree
25 to increase the Gross Settlement Amount by 1%); or 2) shorten the release period such
26 that it ends on the date that the number of workweeks reaches 26,332, in which case
27 Defendant will not be required to pay the additional amounts. There shall be no
28

1 increase in the Gross Settlement Amount if the total number of Actual Workweeks is
2 26,332, or less.

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

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

19 a. Upon expiration of the Objection/Exclusion Deadline Date,
20 with the Court's permission, a Final Approval hearing shall be conducted to determine
21 final approval of the Settlement along with the amount properly payable for (i) the
22 Fees Award and Costs Award, (ii) Named Plaintiff Enhancement Payment, (iii)
23 Settlement Administration Costs, (iv) Class Member Payments; and (v) the PAGA
24 Payments. Upon final approval of the Settlement by the Court at or after the Final
25 Approval hearing, the Parties shall present a Proposed Final Judgment to the Court
26 for its approval. Class Counsel will be responsible for drafting all documents
27 necessary to obtain Final Approval, including a proposed order and judgment, which
28

1 shall be provided to Defendant's counsel at least seven (7) calendar days prior to filing
2 for review.

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

8 c. Upon completion of administration of the Settlement,
9 Named Plaintiff and Class Counsel shall provide written certification, under penalty
10 of perjury, of such completion to the Court and Defendant's Counsel.

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

17 **IV. Other Provisions**

18 A. **Publicity.** The Parties agree that neither Named Plaintiff nor Class
19 Counsel shall issue any press release or announcement of any kind related in any way
20 to the Settlement. Named Plaintiff and Class Counsel agree that, prior to preliminary
21 approval of the Settlement, they will keep the terms of the Settlement confidential
22 except for purposes of communicating with Named Plaintiff only. Class Counsel shall
23 inform Named Plaintiff that the Settlement is confidential and advise Named Plaintiff
24 to keep the Settlement confidential, and Named Plaintiff understands that the
25 settlement is confidential and shall keep the Settlement confidential. After
26 preliminary approval of the Settlement, Named Plaintiff and Class Counsel may
27 comment regarding the specific terms of the Settlement (1) as required by law; (2) as
28 required under the terms of the Settlement; or (3) as required under counsel's duties

1 and responsibilities as Class Counsel. In all other cases, Named Plaintiff and Class
2 Counsel agree to limit their statements regarding the terms of the Settlement, whether
3 oral, written or electronic (including the world wide web), to say the Lawsuit has been
4 resolved and that Named Plaintiff and Class Counsel are satisfied with the terms of
5 the Settlement. Class Counsel shall not, at any time, advertise or mention the terms
6 of the Settlement on personal or firm website(s); shall not discuss the terms of the
7 Settlement with media, general public, or issue press releases; and shall limit any
8 statements regarding the terms of the Settlement to that information that is publicly
9 available. Nothing in this Paragraph is intended to interfere with Class Counsel's
10 duties and obligations to faithfully discharge their duties as Class Counsel.

11 **B. Privacy of Documents and Information.** Named Plaintiff and Class
12 Counsel agree that none of the documents and information provided to them by
13 Defendant or as part of this Settlement shall be used for any purpose other than
14 settlement of the Lawsuit.

15 **C. No Admission By the Released Parties.**

16 1. The Released Parties, including Defendant, deny any and all
17 claims alleged in the Lawsuit and deny any and all wrongdoing whatsoever. This
18 Settlement Agreement is not a concession or admission, and shall not be used against
19 Defendant or any of the Released Parties as an admission or indication with respect
20 to any claim of any fault, concession or omission by Defendant or any of the Released
21 Parties. Whether or not the Settlement is finally approved, neither the Settlement, nor
22 any document, statement, proceeding or conduct related to this Settlement
23 Agreement, nor any reports or accounts thereof, shall in any event be: (1) construed
24 as, offered or admitted in evidence as, received as, or deemed to be evidence for any
25 purpose adverse to the Released Parties, including, but not limited to, evidence of a
26 presumption, concession, indication or admission by any of the Released Parties of
27 any liability, fault, wrongdoing, omission, concession or damage; or (2) disclosed,
28 referred to or offered or received in evidence against any of the Released Parties, in

1 any further proceeding in the Lawsuit, or any other civil, criminal or administrative
2 action or proceeding, except for purposes of settling the Lawsuit pursuant to this
3 Settlement Agreement.

4 2. The Released Parties, including Defendant, shall have the right to
5 use this Settlement, including the Releases set forth above, to defend against any
6 claims asserted by or on behalf of Settlement Class Members, PAGA Aggrieved
7 Employees, Named Plaintiff, or the LWDA, that are encompassed within the
8 Releases, whether such claims are asserted in the Lawsuit or any other lawsuit.

9 **D. Exhibits and Headings.** The terms of this Settlement Agreement
10 include the terms set forth in any attached Exhibit, which is incorporated by this
11 reference as though fully set forth herein. The Exhibit to this Settlement Agreement
12 is an integral part of the Settlement. The descriptive headings of any paragraphs or
13 sections of this Settlement Agreement are inserted for convenience of reference only
14 and do not constitute a part of this Settlement Agreement.

15 **E. Interim Stay of Proceedings.** The Parties agree to hold all proceedings
16 in the Lawsuit, except such proceedings necessary to implement and complete the
17 Settlement, in abeyance pending the Final Approval hearing to be conducted by the
18 Court.

19 **F. Amendment or Modification.** This Settlement Agreement may be
20 amended or modified only by a written instrument signed by all Parties or their
21 successors-in-interest.

22 **G. Entire Agreement.** This Settlement Agreement and any attached
23 Exhibits constitute the entire agreement among these Parties with respect to resolution
24 of the Lawsuit. To the extent there are any other oral or written agreements relating
25 to the subject matter of this Settlement Agreement, this Settlement Agreement
26 controls and supersedes all such agreements. No oral or written representations,
27 warranties or inducements have been made to any Party concerning this Settlement
28

1 Agreement or its Exhibit other than the representations, warranties and covenants
2 contained and memorialized in this Settlement Agreement and attached Exhibit.

3 **H. Authorization to Enter Into Settlement Agreement.** Counsel for all
4 Parties warrant and represent they are expressly authorized by the Parties whom they
5 represent and who are signing this Settlement Agreement, to negotiate this Settlement
6 Agreement and to take all appropriate action required or permitted to be taken by such
7 Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute
8 any other documents required to effectuate the terms of this Settlement Agreement.
9 The Parties and their counsel will cooperate with each other and use their best efforts
10 to effect the implementation of the Settlement.

11 **I. Binding on Successors and Assigns.** This Settlement Agreement shall
12 be binding upon, and inure to the benefit of, the successors or assigns of the Parties
13 hereto, as previously defined.

14 **J. California Law Governs.** All terms of this Settlement Agreement and
15 the Exhibits hereto shall be governed by and interpreted according to the laws of the
16 State of California.

17 **K. Counterparts.** This Settlement Agreement may be executed in one or
18 more counterparts. All executed counterparts and each of them shall be deemed to be
19 one and the same instrument provided that counsel for the Parties to this Settlement
20 Agreement shall exchange among themselves original signed counterparts.

21 **L. This Settlement is Fair, Adequate and Reasonable.** The Parties
22 believe this Settlement is a fair, adequate and reasonable settlement of the Lawsuit
23 and have arrived at this Settlement in arms-length negotiations, taking into account
24 all relevant factors, present and potential. This Settlement was reached after extensive
25 negotiations.

26 **M. Jurisdiction.** The Court shall retain jurisdiction with respect to the
27 interpretation, implementation, and enforcement of the terms of this Settlement
28 Agreement and all orders and judgments entered in connection therewith, and the

1 parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
2 interpreting, implementing, and enforcing the settlement embodied in this Settlement
3 Agreement and all orders and judgments entered in connection therewith.

4 **N. Cooperation and Drafting.** Each of the Parties has cooperated in the
5 drafting and preparation of this Settlement Agreement. Hence, in any construction
6 made to this Settlement Agreement, the same shall not be construed against any of
7 the Parties.

8 **O. Invalidity of Any Provision.** Before declaring any provision of this
9 Settlement Agreement invalid, the Court shall first attempt to construe the provisions
10 valid to the fullest extent possible consistent with applicable precedents so as to define
11 all provisions of this Settlement Agreement valid and enforceable.

12 **P. Severability.** Should any clause or provision of this Settlement
13 Agreement be declared illegal or unenforceable, it shall be modified or reformed as
14 minimally necessary to be enforceable. If the provision cannot be modified or
15 reformed to be enforceable, such provision shall be severed and deemed null and void,
16 leaving the remainder of this Settlement Agreement in full force and effect.

17 **Q. Named Plaintiff General Release Remains Effective.** Named Plaintiff
18 agrees to sign this Settlement Agreement, and by signing this Settlement Agreement
19 they are bound by the terms herein stated upon final approval, including without
20 limitation the release set forth above. Named Plaintiff also agrees to sign the Named
21 Plaintiff's Individual Settlement as a term of this Settlement. Named Plaintiff shall
22 retain their right to participate as a Settlement Class Member under this Settlement
23 Agreement, and agrees that they may not opt out of the Settlement Class.

24 **R. Stay of Litigation.**

25 The Parties agree that upon the execution of this Agreement the litigation shall
26 be stayed, except to effectuate the terms of this Agreement.

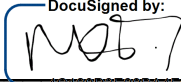
27 **S. No Liens or Encumbrances**

[Signature Page Follows]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PLAINTIFF

Date: 10/16/2024

DocuSigned by:

4C120D3E93D44FC...
MARTHA S. TAPIA

DEFENDANT DAOU VINEYARDS, LLC

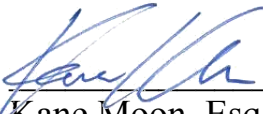
Date: _____

By: Jane Froyd
Its: SVP & General Counsel - Americas

APPROVED AS TO FORM BY:

Moon Law Group

Date: 10/16/2024


Kane Moon, Esq.
Lilit Ter-Astvatsatryan, Esq.
Holly Williams, Esq.
Attorney for Plaintiff Martha S. Tapia

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

Date: 10/17/24


Patricia M. Jeng, Esq.
Attorney for DAOU Vineyards, LLC

1 Named Plaintiff and Class Counsel represent and warrant that there are no liens
2 or encumbrances on any amounts payable under this Settlement Agreement, including
3 on the Gross Settlement Amount and any of its components, including the amounts
4 allocated for Fees Award and Costs Award to Class Counsel, Named Plaintiff
5 Enhancement Payment, the Class Member Payments, the PAGA Payments (which
6 includes payments to the LWDA), and Settlement Administration Costs.

7
8 [Signature Page Follows]

9
10
11 **PLAINTIFF**

12
13 Date: _____
14 MARTHA S. TAPIA

15 **DEFENDANT DAOU VINEYARDS, LLC**

16 DocuSigned by:
17 Ben Dollard
18 Date: 10 October 2024 | 3:25:28 PM PDT
19 By: Ben Dollard
20 Its: President

21 **APPROVED AS TO FORM BY:**

22 **Moon Law Group**

23 Date: _____
24 Kane Moon, Esq.
25 Lilit Ter-Astvatsatryan, Esq.
26 Holly Williams, Esq.
27 Attorney for Plaintiff Martha S. Tapia

28 **SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**