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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CIVIL COMPLEX CENTER

OSVALDO VARGAS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

BLUE LINE FOODSERVICE
DISTRIBUTION, INC., a Michigan corporation;
and DOES 1 through 10, inclusive,

Defendants

Case No.: 30-2023-01328202-CU-OE-CXC

[Assigned to Hon. Lon F. Hurwitz, Dept. CX-103]

**FIRST AMENDED JOINT STIPULATION
OF CLASS ACTION AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Complaint filed: May 24, 2023
Trial date: Not set

**FIRST AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA
REPRESENTATIVE ACTION SETTLEMENT AGREEMENT AND RELEASE OF
CLAIMS**

This FIRST AMENDED Joint Stipulation of Class Action and PAGA Representative Action Settlement Agreement and Release of Claims (“Joint Stipulation of Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff OSVALDO VARGAS, individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and Defendant BLUE LINE FOODSERVICE DISTRIBUTION, INC. (“Defendant”), subject to the terms and conditions herein and the Court’s approval. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. For purposes of this Settlement, this matter, entitled *Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc.*, Case No. 30-2023-01328202-CU-OE-CXC, is referred to herein as the “Action.”

2. For purposes of this Settlement, “Agreement,” “Settlement Agreement,” “Settlement,” or “Stipulation” means this First Amended Joint Stipulation of Class Action and PAGA Representative Action Settlement Agreement and Release of Claims.

3. For purposes of this Settlement, the “Class Period” is May 25, 2019, through January 29, 2025.

4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All current and former non-exempt, hourly employees of Defendant who work or worked for Defendant in California at any time during the Class Period. “Settlement Class Members” are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. Defendant’s best estimate is that the Class included approximately 156 individuals as of April 30, 2024.

5. For purposes of this Settlement, “Class Counsel” means MOON LAW GROUP, PC.

6. For purposes of this Settlement, “Class List and Data” means a file containing the following information for each Class Member: (1) name; (2) last known address; (3) last known telephone number; (4) social security number; (5) the respective number of Covered Workweeks that each Settlement Class Member worked during the Class Period; and (6) the respective number of Pay Periods that each PAGA Member worked during the PAGA Period.

1 7. For purposes of this Settlement, “Class Representative’s Released Claims” shall have the
2 meaning ascribed to it in Paragraph 62 herein.

3 8. For purposes of this Settlement, “Complaint” means the First Amended Complaint.

4 9. For purposes of this Settlement, “Court” means the California Superior Court, County of
5 Orange or any Court of competent jurisdiction.

6 10. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a Class
7 Member worked for Defendant in a non-exempt position in California during the Class Period. Covered
8 Workweeks will be calculated based on Defendant’s business records. The Administrator has confirmed
9 that there are a total of 19,527.20 Covered Workweeks during the Class Period.

10 11. For purposes of the Settlement, “Defendant’s Counsel” means FOLEY & LARDNER LLP.

11 12. For purposes of the Settlement, “Effective Date” means the date by when both of the following
12 have occurred: (a) the Court enters a Judgment on its order granting final approval of the Settlement; and
13 (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
14 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more
15 Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal
16 from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms
17 the Judgment and issues a remittitur.

18 13. For purposes of this Settlement, “Final Approval” refers to the order of the Court granting final
19 approval of this Settlement Agreement that disposes of all issues raised in this Action and entering a
20 Judgment approving this Settlement on substantially the same terms provided herein or as may be modified
21 by subsequent mutual agreement of the Parties or order of the Court.

22 14. For purposes of this Settlement, “Gross Settlement Amount” shall have the meaning ascribed
23 to it in Paragraph 50(b) herein.

24 15. For purposes of this Settlement, “Net Settlement Amount” shall have the meaning ascribed to it
25 in Paragraph 50(f) herein.

26 16. For purposes of this Settlement, “Notice” means the notice of the proposed settlement of class
27 action and PAGA Settlement and setting of a Final Approval hearing that will be sent to the Class Members,
28 as set forth in Paragraph 50(t) herein.

1 17. For purposes of this Settlement, “Objecting Settlement Class Member” means a Settlement
2 Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Agreement
3 pursuant to Paragraph 50(y) herein.

4 18. For purposes of this Settlement, “PAGA Allocation” means the amount that the Parties have
5 agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in resolution of the Labor Code
6 Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”) claims asserted in the
7 Action. The Parties have agreed that the PAGA Allocation will be \$25,000.00 of the Gross Settlement
8 Amount.

9 19. For purposes of this Settlement, “PAGA Employee” means all individuals who performed work
10 in any non-exempt position for Defendant in California at any time during the PAGA Period. It is stipulated
11 by the Parties that, for purposes of this Settlement only, all PAGA Employees are “aggrieved employees”
12 as defined pursuant to PAGA.

13 20. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods each
14 PAGA Employee worked for Defendant in a non-exempt position in California during the PAGA Period.
15 PAGA Pay Periods will be calculated based on Defendant’s business records.

16 21. For purposes of this Settlement, “PAGA Penalty Payment” means seventy-five percent (75%)
17 of the PAGA Allocation, or \$18,750.00, that will be paid to the LWDA.

18 22. For purposes of this Settlement, “PAGA Period” means the period between May 21, 2022,
19 through January 29, 2025.

20 23. For purposes of this Settlement, “PAGA Representative” or “Class Representative” or
21 “Plaintiff” means Plaintiff Osvaldo Vargas.

22 24. For purposes of this Settlement, “PAGA Settlement Payment” means and twenty-five percent
23 (25%) of the PAGA Allocation, or \$6,250.00, that will be included in the Net Settlement Amount for
24 distribution to the PAGA Employees on a *pro rata* basis.

25 25. For purposes of this Settlement, “Preliminary Approval Date” means the date the Court
26 preliminarily approves the Settlement Agreement, and the exhibits thereto, and enters the Preliminary
27 Approval Order.

28 26. For purposes of this Settlement, “Preliminary Approval Order” means the judicial Order to be

1 entered by the Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
2 and providing for the issuance of the Notice to the Class Members, an opportunity to submit timely Requests
3 for Exclusion from the settlement of the Class Claims, an opportunity to submit timely objections to the
4 terms of this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of the
5 Settlement, including approval of attorneys' fees and costs.

6 27. For purposes of this Settlement, "QSF" means the Qualified Settlement Fund set up by the
7 Settlement Administrator for the benefit of the Settlement Class Members, and from which the settlement
8 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code
9 Section 468.

10 28. For purposes of this Settlement, "Release" or "Released Claims" means the release and
11 discharge of the Class Claims by Plaintiff and all of the Settlement Class Members and the release and
12 discharge of the PAGA Claims by Plaintiff and all of the PAGA Employees.

13 29. For purposes of this Settlement, "Released Class Claims" or "Class Claims" means any and all
14 claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that
15 were pled or which could have been pled based on the factual allegations contained in the Complaint,
16 including claims for: (i) failure to pay minimum wages in violation of Labor Code §§ 204, 1194, 1194.2 and
17 1197; (ii) failure to keep adequate time records in violation of Labor Code § 1174(d); failure to pay overtime
18 compensation in violation of Labor Code §§ 510, 1194 and 1198; (iii) failure to provide meal periods or pay
19 meal period premiums in violation of Labor Code §§ 226.7 and 512; (iv) failure to authorize and permit rest
20 breaks or pay rest break premiums in violation of Labor Code § 226.7; (v) failure to indemnify necessary
21 business expenses in violation of Labor Code § 2802; (vi) failure to timely pay final wages at termination in
22 violation of Labor Code §§ 201-203; (vii) failure to provide accurate itemized wage statements in violation
23 of Labor Code § 226; (viii) unfair business practices in violation of Cal. Business & Professions Code §
24 17200. The Released Class Claims extend to all theories of relief, whether under California law, federal law,
25 state law or common law (including, without limitation, as alleged violations of the California Labor Code,
26 the IWC Wage Orders, applicable regulations, or California's Business and Professions Code §§ 17200).
27 The Released Class Claims include all types of relief available for the Released Class Claims, including
28 without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys' fees, costs,

1 expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages.

2 30. For purposes of this Settlement, “Released Parties” means Defendant, together with each of its
3 past, and present officers, directors, shareholders, managers, employees, agents, principals, heirs,
4 representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest,
5 subsidiaries, affiliates, parents and attorneys.

6 31. For purposes of this Settlement, “Released PAGA Claims” or “PAGA Claims” means any and
7 all claims, causes of action, demands, damages, or liabilities under the Private Attorneys General Act of
8 2004, Labor Code §§ *et seq.* (“PAGA”), arising at any time during the PAGA Period that were pled or which
9 could have been pled based on the factual allegations contained in the Complaint, including claims premised
10 on the alleged Labor Code violations identified in Section 29 herein. The Released PAGA Claims include
11 all types of relief available for the Released PAGA Claims, including without limitation any claims for
12 damages, penalties, fines, attorneys’ fees, costs, expenses or interest.

13 32. For purposes of this Settlement, “Response Deadline” means the date sixty (60) calendar days
14 after the Settlement Administrator initially mails the Notice to Settlement Class Members and the last date
15 on which Settlement Class Members may submit a Request for Exclusion or written objection to the
16 Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 60 calendar days
17 after initial mailing or 45 calendar days from re-mailing. The Response Deadline may be extended only as
18 expressly described herein.

19 33. For purposes of this Settlement, “Request for Exclusion” shall have the meaning ascribed to it
20 in Paragraph 50(x) herein.

21 34. For purposes of this Settlement, “Service Payment” means the amount approved by the Court to
22 be paid to Plaintiff in addition to his individual Settlement Class Payment as a Settlement Class Member
23 and individual PAGA Payment as a PAGA Employee.

24 35. For purposes of this Settlement, “Settlement Administration Costs” means the actual and direct
25 fees and expenses reasonably incurred by the Settlement Administrator for administering this Settlement,
26 including, but not limited to, printing, distributing, and tracking documents for this Settlement, calculating
27 estimated amounts per Class Member, tax reporting, due diligence, reporting and remittance obligations,
28 distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested

1 by the Parties. The Settlement Administration Costs shall be paid from the Gross Settlement Amount.

2 36. For purposes of this Settlement, “Settlement Class Members” are those Class Members who do
3 not submit timely to the Settlement Administrator Requests for Exclusion from settlement of the Class
4 Claims.

5 37. For purposes of this Settlement, “Settlement Class Payments” shall have the meaning ascribed
6 to it in Paragraph 50(h) herein.

7 38. For purposes of this Settlement, “Settlement Payments” means all of the payments to Settlement
8 Class Members (the “Settlement Class Payments”) and all of the payments to PAGA Employees (the
9 “PAGA Settlement Payment”).

10 **STIPULATED BACKGROUND**

11 39. On May 24, 2023, Plaintiff filed the Action alleging the following causes of action: (1) Failure
12 to Pay Minimum and Straight Time Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to
13 Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal.
14 Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5)
15 Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (6) Failure to Provide
16 Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; (7) Failure to Provide Accurate Itemized Wage
17 Statements [Cal. Lab. Code § 226]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et
18 seq.]. In the Complaint, Plaintiff seeks to represent all persons that worked for Defendant in California as an
19 hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of
20 the initial complaint and ending when Notice to the Class is sent.

21 40. On October 26, 2023, Plaintiff filed a First Amended Complaint adding a cause of action for
22 Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Cal. Lab. Code § 2699, et
23 seq.] (“PAGA”).

24 41. Solely for purposes of settling the Action as set forth in this Agreement, Defendant will stipulate
25 and agree that the Class Members described herein who do not Request Exclusion from the Settlement Class
26 may be conditionally certified as a settlement class and that the PAGA Employees are appropriate for
27 representative treatment for purposes of settlement. This stipulation to certification and representative
28 treatment is in no way an admission that class action certification and/or representative treatment is proper

1 and shall not be admissible in this or in any other action except for the sole purposes of enforcing this
2 Agreement.

3 42. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were
4 willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be
5 admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be
6 certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves its
7 right to oppose class certification, representative treatment, and the substantive merits of this Action should
8 Final Approval or the Effective Date not occur for any reason.

9 43. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the claims
10 alleged in the Complaint, and Defendant further denies that, for any purpose other than settling this lawsuit,
11 the action is appropriate for class or representative treatment. With respect to Plaintiff's claims, Defendant
12 contends, among other things, that Plaintiff and the Class Members have been paid proper wages, have been
13 provided compliant meal periods, have been provided compliant rest periods, have been properly provided
14 meal and rest period premiums, have been paid for all time worked, have been reimbursed for business
15 expenses, have been paid timely wages upon separation of employment, and have been provided with
16 accurate itemized wage statements. Defendant contends, among other things, that it has complied at all
17 times with the California Labor Code and the applicable Wage Orders of the Industrial Welfare Commission.
18 Furthermore, with respect to all claims, Defendant contends that it has complied at all times with the
19 California Business and Professions Code.

20 44. Class Counsel has conducted a thorough investigation into the facts of this Action, including an
21 extensive review of relevant documents, and has diligently pursued an investigation of the claims of the
22 Class against Defendant. Based on its own independent investigation and evaluation, Class Counsel is of the
23 opinion that the Settlement with Defendant for the consideration and on the terms set forth in this Joint
24 Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of
25 all known facts and circumstances, including the risk of significant delay, the risk the Class will not be
26 certified by the Court, defenses asserted by Defendant, and numerous potential appellate issues. Defendant
27 and Defendant's Counsel also agree that the Settlement is fair and in the best interest of the Class.

28 45. On April 30, 2024, the Parties participated in mediation before Jeff Ross, Esq., a highly

1 experienced class action mediator. After a full-day mediation and subsequent negotiations, the Parties
2 reached a settlement and entered into a Memorandum of Understanding. The Parties agree that the terms
3 and conditions of this Agreement are the result of lengthy, intensive, arms-length negotiations between the
4 Parties supervised by a highly experienced class action mediator. This Agreement represents a compromise
5 and settlement of highly disputed claims, and is intended to settle, compromise and discharge the Released
6 Class Claims and Released PAGA Claims against the Released Parties fully, finally, and forever.

7 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts to be
8 performed or judgments to be entered pursuant to the terms of the Settlement and Agreement, shall be
9 construed as an admission by Defendant or any of the Released Parties of any wrongdoing or violation of
10 any statute or law or liability on the claims or allegations in the Action.

11 47. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all
12 disputes and claims arising from or related to the Complaint.

13 48. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary
14 and final approval of this Settlement.

15 49. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to
16 implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

17 **PRIMARY TERMS OF SETTLEMENT**

18 50. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set
19 forth herein, the Parties agree, subject to the Court's approval, as follows:

20 (a) It is agreed by and among the Class and Defendant that this case and any claims,
21 damages, or causes of action arising out of the disputes which are the subject of this
22 case, be settled and compromised as between the Class and Defendant, subject to the
23 terms and conditions set forth in this Settlement and the approval of the Court.

24 (b) Gross Settlement Amount: In consideration for settlement of the Action and the
25 Release described in Paragraph 66 and its subparts herein, Defendant shall be
26 obligated to pay a total payment of \$330,000.00 ("Gross Settlement Amount"). The
27 Gross Settlement Amount is the maximum amount that will be paid by Defendant,
28 and includes Plaintiff's attorneys' fees and litigation costs as set forth in Paragraphs

50(n) and 56 and its subparts herein, Plaintiff's Service Payment as set forth in Paragraph 50(o) herein, the Settlement Administration Costs as set forth in Paragraph 50(q) herein, the PAGA Allocation as set forth in Paragraph 18 herein, and the Settlement Class Payments, as set forth in Paragraph 50(h) herein. In no event shall Defendant be required to pay any amounts above this Gross Settlement Amount under this Settlement, with the limited exception that, as to the portion of the Settlement Class Payments that are allocated as wages, Defendant shall be separately responsible for paying only its share of any applicable payroll taxes, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount, as set forth in Paragraph 50(g) herein.

(c) Non-reversionary Settlement: No portion of the Gross Settlement Amount will revert to Defendant. Settlement Class Members who do not timely submit valid requests for exclusion are entitled to 100% of the Net Settlement Amount. Distributions, in the form of Settlement Class Payments to Settlement Class Members, will be made directly to each Settlement Class Member. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the individual Settlement Class Payment for each Settlement Class Member so that the amount actually distributed to Settlement Class Members equals 100% of the Net Settlement Amount. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Settlement Class Member not cashing a Settlement Class Payment by the check cashing deadline, as set forth in Paragraphs 58 and 59 herein.

(d) No Claims Required: Settlement Class Members will not be required to submit a claim to receive their Settlement Class Payment, and PAGA Employees will not be required to submit a claim to receive their PAGA Settlement Payment.

(e) Net Settlement Amount: The Net Settlement Amount is defined as the Gross Settlement Amount (\$330,000.00) less the following sums, subject to approval by

the Court: (1) attorney's fees (not to exceed 33.33% of the Gross Settlement Amount, or \$110,000.00); (2) reasonable litigation costs (not to exceed \$25,000.00); (3) the Service Payment (not to exceed \$5,000.00 to Plaintiff); (4) the PAGA Penalty Payment in the amount of \$18,750.00 (which is 75% of the PAGA Allocation); and (5) Settlement Administration Costs (estimated not to exceed \$7,052.00). Settlement Payments to the Class Members will be calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth in Paragraphs 50(h) and 50(i) herein. In the event that the Court reduces the attorney's fees, litigation costs, Service Payment or Settlement Administration Costs, or either increases or decreases the PAGA Allocation, the Net Settlement Amount shall be increased or decreased accordingly.

(f) Payroll Taxes and Required Withholdings: As to that portion of the Settlement Class Members' Settlement Payments that constitute wages, Defendant shall be separately responsible for only its share of any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount. Except for any employer payroll taxes, it is understood and agreed that Defendant's maximum total liability under this Settlement shall not exceed the Gross Settlement Amount. The Settlement Administrator shall provide to Defendant an estimate of the employer's share of payroll taxes within ten (10) calendar days of sending out the Notice to the Class. Upon calculation of each Settlement Class Member's share of the Net Settlement Amount, and at least three (3) calendar days after Final Approval (if not sooner), the Settlement Administrator shall advise Defendant of the amount of the employer's share of payroll taxes. Defendant will provide that amount to the Settlement Administrator within fifteen (15) business days of the Effective Date. The Settlement Administrator shall remit the employer payroll taxes due to the appropriate taxing authorities.

(g) Settlement Class Payments (Excludes PAGA Settlement Payment): The Settlement

Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member will be paid a pro-rata share of the Net Settlement Amount (less the PAGA Settlement Payment), as calculated by the Settlement Administrator using the Class List and Data provided by Defendant. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows:
$$\frac{[\text{Workweeks worked by a Settlement Class Member}]}{[\text{Sum of all Covered Workweeks worked by all Settlement Class Members}]} \times [\text{Net Settlement Amount} - \text{all PAGA Settlement Payments}] = \text{individual Settlement Payment for a Settlement Class Member.}$$
 Driver payments will be calculated as 50% of the workweek amount for non-drivers. Each Settlement Class Member's share of the Settlement Class Payment will be distributed by the Settlement Administrator by mail to each Settlement Class Member. Un-cashed, unclaimed or abandoned checks, shall be transmitted to the California Controller's Office, as set forth in Paragraph 59 herein. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase each Settlement Class Member's share of the Settlement Class Payment so that the amount distributed to Settlement Class Members equals 100% of the Net Settlement Amount.

(h) PAGA Settlement Payment: The PAGA Settlement Payment will be paid out of the Net Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the PAGA Settlement Payment, as calculated by the Settlement Administrator using the Class List and Data provided by Defendant. Class Members are not permitted to exclude themselves from this portion of the Settlement. The pro-rata share will be determined by comparing each PAGA Employee's PAGA Pay Periods during the PAGA Period in California to the total PAGA Pay Periods of all PAGA Employees during the PAGA Period as follows:
$$\frac{[\text{PAGA Pay Periods of a PAGA Employee}]}{[\text{Sum of all PAGA Pay Periods of all PAGA Employees}]} \times [\text{PAGA Settlement}$$

1 Payment] = individual PAGA Settlement Payment for a PAGA Employee. Each
2 PAGA Employee's share of the PAGA Settlement Payment will be distributed by
3 the Settlement Administrator by mail to each PAGA Employee. Un-cashed,
4 unclaimed or abandoned checks, shall be transmitted to the California Controller's
5 Office, as set forth in Paragraph 59 herein.

6 (i) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
7 Payments will be allocated as follows: 10% in settlement of wage claims subject to
8 all applicable federal, state and local withholdings, and 90% in settlement of civil
9 penalties, interest, and other non-wage claims from which no taxes will be withheld.
10 The PAGA Settlement Payment shares to PAGA Employees will be entirely
11 allocated to civil penalties from which no taxes will be withheld. The Settlement
12 Administrator will issue to each Settlement Class Member an Internal Revenue
13 Service Form W-2 and comparable state forms with respect to the portion allocated
14 to settlement of wage claims, and an Internal Revenue Service Form 1099 with
15 respect to the portion allocated to settlement of claims for civil penalties, interest and
16 other non-wage claims.

17 (j) Tax Liability: Class Counsel, Defendant, and Defendant's Counsel make no
18 representations as to the tax treatment or legal effect of the Settlement Payments
19 called for hereunder, and Plaintiff and the Class Members are not relying on any
20 statement or representation by Class Counsel, Defendant, or Defendant's Counsel in
21 this regard. Plaintiff and Class Members understand and agree that they will be solely
22 responsible for the payment of any taxes and penalties assessed on their respective
23 Settlement Payments described herein. Income tax withholding will also be made
24 pursuant to applicable federal, state, and/or local withholding codes or regulations.
25 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner
26 required by the Internal Revenue Code of 1986 (the "Code") and consistent with this
27 Agreement. If the Code, the regulations promulgated thereunder, or other applicable
28 tax law, are changed after the date of this Agreement, the processes set forth in this

1 Section may be modified in a manner to bring Defendant into compliance with any
2 such changes.

3 (k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR
4 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND
5 EACH PARTY TO THIS AGREEMENT OTHER THAN THE
6 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES
7 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
8 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG
9 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
10 WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR
11 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
12 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
13 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
14 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
15 EXCLUSIVELY UPON HIS, HER, THEIR, OR ITS OWN, INDEPENDENT
16 LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
17 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
18 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY
19 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER
20 PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
21 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
22 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
23 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
24 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
25 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S
26 OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
27 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
28 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX

STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
CONTEMPLATED BY THIS AGREEMENT.

- (l) Settlement Class Payments Do Not Give Rise to Additional Benefits: All Settlement Class Payments to individual Settlement Class Members and PAGA Settlement Payments to individual PAGA Employees shall be deemed to be paid to such Settlement Class Members and PAGA Employees solely in the year in which such payments actually are received by the Settlement Class Members and PAGA Employees. It is expressly understood and agreed that the receipt of such Settlement Payments will not entitle any Settlement Class Member or PAGA Employee to additional compensation or benefits under any company bonus, contest or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Settlement Class Member or PAGA Employee to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. Defendant will not modify the Settlement Class Members' or PAGA Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant and/or any of the Released Parties, unless otherwise required by law. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Class Members or PAGA Employees may be entitled under any benefit plans, and that the Settlement Class Members and PAGA Employees are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).
- (m) Attorney's Fees and Costs: In consideration for settlement of the Action and the Release described in Paragraph 66 and its subparts herein, Defendant will not oppose Class Counsel's application to the Court for attorney's fees not to exceed 33.33% of the Gross Settlement Amount (\$110,000.00) and reimbursement of litigation costs

1 and expenses not to exceed \$25,000.00. Any attorneys' fees and litigation costs and
2 expenses awarded by the Court shall be paid from the Gross Settlement Amount,
3 and except for this award, Defendant shall have no further obligation to pay any
4 attorneys' fees, costs or expenses to Plaintiff, any Settlement Class Member, or Class
5 Counsel.

6 (n) Service Payment: In exchange for the general Release described in Paragraph 62
7 herein, Defendant will not oppose Class Counsel's application to the Court for
8 Service Payment of up to \$5,000.00 to Plaintiff for his service as a Class
9 Representative. The amount of any Service Payment will be set by the Court in its
10 discretion, and any Service Payment awarded by the Court shall be paid out of the
11 Gross Settlement Amount. It is understood that the Service Payment is in addition to
12 the Plaintiff's share of the Net Settlement Amount to which Plaintiff is entitled along
13 with the other Class Members and PAGA Employees. Plaintiff shall not request
14 exclusion from or object to the Settlement. The Settlement Administrator shall issue
15 the Service Payment to Plaintiff at the same time it issues the Settlement Payments
16 to the Settlement Class Members and PAGA Employees. The Settlement
17 Administrator (and not Defendant) will issue an IRS Form 1099 to Plaintiff
18 reflecting the Service Payment. Plaintiff will be solely and legally responsible for
19 correctly characterizing this compensation on personal income tax returns for tax
20 purposes and for paying any taxes on the Service Payment. Plaintiff will indemnify
21 and hold Defendant harmless from any claim or liability for taxes, penalties, or
22 interest arising as a result of this Service Payment. In exchange for this Service
23 Payment, Plaintiff hereby agrees to the Release set forth in Paragraph 62 herein,
24 agrees not to publicize the settlement beyond what is required or expressly approved
25 by the Court, agrees to respond to any inquiry regarding the settlement only by
26 referring the inquiry to Class Counsel and saying nothing further, unless otherwise
27 required by law. Should the Court approve a Service Payment in an amount less than
28 \$5,000.00, Plaintiff shall not have the right to revoke this Agreement and the

1 difference between the lesser amount approved by the Court and \$5,000.00 shall be
2 added to the Net Settlement Amount. In the event of any appeal of the amount of
3 the Service Payment (if any) approved by the Court, if, after the exhaustion of any
4 such appellate review, additional amounts not awarded to Plaintiff shall be added to
5 the Net Settlement Amount to be distributed to the Settlement Class Members.

6 (o) PAGA Penalty Payment: The PAGA Penalty Payment shall be paid from the Gross
7 Settlement Amount in satisfaction of Plaintiff's claims for civil penalties under
8 PAGA. The Settlement Administrator will issue the PAGA Penalty Payment to the
9 LWDA at the same time it issues Settlement Payments to the Settlement Class.

10 (p) Settlement Administrator and Settlement Administration Costs: The Settlement
11 Administrator will be Simpluris or such Settlement Administrator as may be
12 mutually agreeable to the Parties and approved by the Court. Settlement
13 Administration Costs will be paid from the Gross Settlement Amount. Settlement
14 Administration Costs are estimated not to exceed \$7,052.00 for expenses including,
15 but not limited to printing, distributing, and tracking forms for this Settlement,
16 calculating estimated amounts per Class Member, tax reporting, distributing the Net
17 Settlement Amount to Settlement Class Members and PAGA Employees,
18 distributing Court-approved attorneys' fees and litigation costs to Class Counsel,
19 distributing the PAGA Allocation to the LWDA, and providing necessary reports
20 and declarations, and other duties and responsibilities set forth herein to process this
21 Settlement, as requested by the Parties. The costs of the Settlement Administrator
22 for work done shall be paid regardless of the outcome of this Settlement. To the
23 extent that Settlement Administration Costs are ultimately less than the amount of
24 the quote provided by the selected Settlement Administrator, the remainder shall
25 become part of the Net Settlement Amount.

26 (q) Funding of Settlement Account: Within fifteen (15) business days of the Effective
27 Date of the Settlement, Defendant shall make a one-time deposit into the QSF
28 created by the Settlement Administrator the Gross Settlement Amount and

1 Defendant's share of employer payroll taxes as calculated and directed by the
2 Settlement Administrator. Upon Defendant's transfer of the Gross Settlement
3 Amount and its share of employer payroll taxes to the QSF, Defendant, the Released
4 Parties and Defendant's Counsel shall have no further monetary liability or financial
5 responsibility to Class Counsel, Plaintiff, Settlement Class Members, the Settlement
6 Administrator, or any vendors or third parties employed by Plaintiff, Class Counsel,
7 and/or the Settlement Administrator in connection with the Action. Defendant shall
8 not be obligated to make any payments contemplated by this Agreement unless and
9 until the Court enters the Final Approval Order and Final Judgment, and after the
10 Effective Date of the Agreement.

11 (r) Distribution of Gross Settlement Amount: No later than seven (7) business days after
12 deposit of the payment into the QSF, the Settlement Administrator will mail each
13 Settlement Class Member their share of the Settlement Payments, the payment for
14 the attorneys' fees and litigation costs and expenses to Class Counsel, any Service
15 Payment to Plaintiff, the PAGA Penalty Payment to the LWDA, and will pay itself
16 the Settlement Administration Costs.

17 (s) Notice of Settlement: The Settlement Administrator will mail each Class Member a
18 notice setting forth the material terms of the proposed Settlement, along with
19 instructions about how to object or request exclusion from the proposed class action
20 Settlement ("Notice"). For each Class Member, the Settlement Administrator will
21 include on the Notice pre-printed information, based on Defendant's records, stating
22 the Class Member's Covered Workweeks during the Class Period, any PAGA Pay
23 Periods during the PAGA Period, and the estimated total Settlement Payment under
24 the Settlement, including the Settlement Class Payment and the PAGA Settlement
25 Payment that will be distributed irrespective of any Requests for Exclusion. The pre-
26 printed information based on Defendant's records shall be presumed to be correct.
27 A Class Member may dispute the pre-printed information on the Notice as to
28 his/her/their Covered Workweeks during the Class Period and/or PAGA Pay Periods

1 during the PAGA Period, as set forth in Paragraph 50(w) herein. Class Members
2 must submit any dispute regarding the information on the Notice as to his/her/their
3 Covered Workweeks and/or PAGA Pay Periods within the Response Deadline.

4 (t) Settlement Notice Language: The Notice will issue in English and Spanish.

5 (u) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

6 Class Members submitting a Request for Exclusion will nevertheless receive their
7 pro-rata share of the PAGA Settlement Payment. If the Court approves the
8 compromise of the PAGA Claim, all Class Members are bound by the Court's
9 resolution of that Claim. Plaintiff shall serve a notice of settlement on the LWDA at
10 or before the time Plaintiff files the motion for preliminary approval.

11 (v) Disputes Regarding Class Data. Class Members may dispute their Covered
12 Workweeks and/or PAGA Pay Periods if they feel they were employed more
13 workweeks in the Class Period and/or PAGA Pay Periods in California than
14 Defendant's records show by timely submitting evidence to the Settlement
15 Administrator. Each Class Member is responsible for maintaining a copy of any
16 documents sent to the Settlement Administrator and a record of proof of mailing.
17 Defendant's records will be presumed determinative absent reliable evidence to
18 rebut Defendant's records, but the Settlement Administrator will evaluate the
19 evidence submitted by the Class Member and provide the evidence submitted to
20 Class Counsel and Defendant's Counsel who agree to meet and confer in good faith
21 about the evidence to determine the Class Member's actual number of Covered
22 Workweeks and/or PAGA Pay Periods and estimated share of the Net Settlement
23 Amount. If Class Counsel and Defendant's Counsel are unable to agree, they agree
24 to submit the dispute to the Settlement Administrator to render a final decision. Class
25 Members will have until the Response Deadline to dispute Covered Workweeks
26 and/or PAGA Pay Periods. Information or documents submitted after the expiration
27 of the Response Deadline will not be considered by the Settlement Administrator,
28 unless otherwise agreed to by the Parties. In the event that the Settlement

1 Administrator increases the number of Covered Workweeks and/or PAGA Pay
2 Periods for any Class Member, then the Settlement Administrator will recalculate
3 each Settlement Class Member's share of the Net Settlement Amount; accordingly,
4 in no event will Defendant be required to increase the Gross Settlement Amount.

5 (w) Right of Class Member to Request Exclusion from the Settlement: Any Class
6 Member, other than Plaintiff, may request to be excluded from settlement of the
7 Class Claims by submitting a "Request for Exclusion" to the Settlement
8 Administrator, postmarked on or before the Response Deadline at the address set
9 forth in the Notice. Requests for Exclusion must: (1) contain the name, address,
10 telephone number, last four digits of the Class Member's Social Security Number,
11 and the signature of the Class Member requesting exclusion; (2) clearly state that the
12 Class Member does not wish to be included in the Settlement; (3) be returned by
13 mail to the Settlement Administrator at the specified address; and, (4) be postmarked
14 on or before the Response Deadline. The date of the postmark on the return mailing
15 envelope shall be the exclusive means to determine whether a Request for Exclusion
16 has been timely submitted. A Request for Exclusion will be timely only if made in
17 accordance with the terms set forth herein and postmarked by the Response
18 Deadline. The Settlement Administrator shall provide any Requests for Exclusion to
19 Class Counsel and Defendant's Counsel within three (3) days of receipt, and the
20 Settlement Administrator shall attach the same to its declaration of due diligence it
21 files with the Court prior to the final approval hearing. Any Class Member who
22 timely requests exclusion in compliance with these requirements: (i) will not have
23 any rights under this Agreement with respect to the Class Claims, including the right
24 to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive
25 any payments under this Agreement with respect to Class Claims; and (iii) will not
26 be bound by this Agreement, or the Judgment, with respect to the Class Claims. Any
27 Class Member who does not request exclusion from the Settlement, regardless of
28 whether they cash their settlement check, will be bound by all terms of the

1 Settlement, including those pertaining to Released Class Claims, Released Parties,
2 as well as any Judgment that may be entered by the Court if it grants final approval
3 of the Settlement. PAGA Employees will receive their share of the PAGA
4 Settlement Payment and will be deemed to have released the PAGA Released
5 Claims regardless of whether they opt-out from the settlement of Class Claims.
6 PAGA Employees may not opt out or otherwise request exclusion from the
7 settlement of PAGA Claims.

8 (x) Right of Settlement Class Member to Object to The Settlement: PAGA Employees
9 may not object to the Settlement with respect to the PAGA Claims. However, any
10 Settlement Class Member, other than Plaintiff, may object to the Settlement with
11 respect to the Class Claims. To object, the Settlement Class Member may (1) appear
12 in person at the Final Approval Hearing to explain any objection, (2) have an
13 attorney object for the Class Member, *or* (3) submit a simple written brief or
14 statement of objection to the Settlement Administrator, postmarked on or before the
15 Response Deadline at the address set forth in the Notice. If any Settlement Class
16 Member chooses to submit a written objection, the written objection should contain
17 sufficient information to confirm the identity of the Objecting Settlement Class
18 Member and the basis of the objection, including (1) the full name of the Objecting
19 Settlement Class Member; (2) the signature of the Objecting Settlement Class
20 Member; (3) the grounds for the objection, as well as any documentation or evidence
21 in support thereof; and (4) if the Objecting Settlement Class Member is represented
22 by counsel, the name and address of his/her/their counsel. Any objection must be
23 postmarked within the Response Deadline to permit adequate time for processing
24 and review by the Parties of the written statement or objection. The Settlement
25 Administrator shall provide objections, if any, to Class Counsel and Defendant's
26 Counsel within three (3) days of receipt, and the Settlement Administrator shall
27 attach the same to the declaration of due diligence it files with the Court prior to the
28 final approval hearing. Any Settlement Class Member who files an objection

remains eligible to receive his/her/their share of the Settlement Class Payment. If a Class Member timely submits both an objection and a Request for Exclusion, the objection will be considered invalid. Settlement Class Members also have the right to appear at the final approval hearing to state any objection. Regardless of the form, an objection alone will not satisfy the requirement that a Settlement Class Member must either make a timely complaint in intervention before final judgment or file a motion to set aside and vacate the class judgment under Code of Civil Procedure § 663 to have standing to appeal entry of judgment approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). Neither Plaintiff nor Defendant shall be responsible for any fees, costs, or expenses incurred by any Class Member and/or his/her/their counsel related to any objections to the Settlement.

(y) Failure to Object. Any Class Member who does not object prior to or at the final approval hearing will be deemed to have waived any objections and will be foreclosed from making any objections (whether at the final approval hearing, by appeal, or otherwise) to the Settlement. If the Objecting Settlement Class Member does not formally intervene in the action or move to set aside any judgment and/or the Court rejects the Objecting Settlement Class Member's objection, the Objecting Settlement Class Member will still be bound by the terms of this Agreement and waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure section 473, or extraordinary writs.

(z) Responses to Objections. Class Counsel and Defendant's Counsel may, at least five (5) calendar days (or some other number of days as the Court shall specify) before the final approval hearing, file responses to any written objections submitted to the Court.

(aa) Opt-In to Release Under Fair Labor Standards Act: Class Members will be advised

1 that they will opt into a settlement of claims for unpaid compensation under the Fair
2 Labor Standards Act (“FLSA”) by cashing, depositing or otherwise negotiating the
3 check for their Settlement Class Payment. This will be set forth in the Notice.

4 **THE SETTLEMENT ADMINISTRATOR’S PRIMARY DUTIES**

5 51. Subject to the Court’s approval, and subject to reconsideration by the Parties after a competitive
6 bidding process, the Parties have agreed to the appointment of Simpluris to perform the customary duties of
7 Settlement Administrator, including mailing the Notice in English and Spanish to the Class Members, using
8 standard devices to obtain forwarding addresses, independently reviewing and verifying documentation
9 associated with any Requests for Exclusion and objections, resolving any disputes regarding the calculation
10 or application of the formula for determining each Class Member’s Settlement Payment, establishing QSF,
11 drafting and mailing the settlement checks to Settlement Class Members, issuing Forms W-2 and 1099,
12 reporting to taxing authorities, due diligence, reporting and remittance obligations, and performing such
13 other tasks as set forth herein or as the Parties mutually agree or that the Court orders. The Settlement
14 Administrator shall also be responsible for: (a) calculating each Class Member’s Settlement Payment and
15 withholding from the same; (b) remitting to applicable government agencies sufficient amounts, if any, as
16 may be owed by Settlement Class Members for applicable employee taxes; (c) calculating the employer’s
17 share of payroll taxes due; (d) remitting such payroll taxes to the appropriate taxing authorities; (e) issuing
18 to Plaintiff, Settlement Class Members and Class Counsel any Forms W-2, Forms 1099 and/or other tax
19 forms as may be required by law for all amounts paid pursuant to this Agreement; (f) setting up all necessary
20 tax accounts; (g) preparing and sending all tax notices, and (h) forwarding all payroll taxes, notices, and
21 penalties to the appropriate government authorities.

22 52. The Settlement Administrator will independently review the Covered Workweeks attributed to
23 each Class Member and PAGA Pay Periods attributed to each PAGA Employee, and will calculate the
24 estimated amounts due to each Class Member and each PAGA Employee, as well as the actual amounts due
25 to each Settlement Class Member in accordance with this Settlement. The Settlement Administrator shall
26 report, in summary or narrative form, the substance of its findings.

27 53. Within ten (10) days of the close of the Response Deadline, the Settlement Administrator will
28 provide to Class Counsel and Defendant’s counsel a final report identifying all objections and Requests for

1 Exclusion. Within ten (10) days of the close of the Response Deadline, The Settlement Administrator shall
2 provide counsel for the Parties a declaration of due diligence and proof of mailing with regard to the mailing
3 of the Notice.

4 54. Any and all disputes relating to the Settlement Administrator's performance of its duties shall
5 be referred to the Court, if necessary, which will have continuing jurisdiction pursuant to California Code
6 of Civil Procedure § 664.6 over the terms and conditions of this Settlement until all payments and obligations
7 contemplated by this Settlement have been fully carried out. Prior to presenting any issue to the Court,
8 counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court
9 intervention.

10 55. Without prejudice to any other remedies, the Settlement Administrator shall agree to be
11 responsible for any breach of its obligations (whether committed by the Settlement Administrator or its
12 agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities,
13 claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach
14 committed by the Settlement Administrator or its agents.

15 **ATTORNEY'S FEES AND COSTS**

16 56. In consideration for settlement of the Action and the Release described in Paragraph 66 and its
17 subparts herein, Defendant will not object to Class Counsel's application to the Court for attorney's fees not
18 to exceed 33.33% of the Gross Settlement Amount (\$110,000.00 of \$330,000.00) and litigation costs not to
19 exceed \$25,000.00. The amounts set forth above will cover all work performed and all fees and costs
20 incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the
21 approval by the Court of this Settlement and administration of the Settlement.

22 (a) Class Counsel will submit an application for attorneys' fees and litigation costs to
23 the Court for approval prior to the date of the hearing for final approval of the
24 Settlement. The ultimate amount of any award for attorneys' fees and litigation costs
25 is to be determined by the Court, and Defendant is not agreeing to pay any specific
26 amount(s) other than the amount(s) awarded by the Court. The Settlement
27 Administrator (and not the Defendant) shall issue an IRS Form 1099 to Class
28 Counsel reflecting the awarded attorneys' fees and costs.

- 1 (b) Should Class Counsel request a lesser amount and/or the Court approve a lesser
2 amount(s) of attorney's fees and/or litigation costs, the difference between the lesser
3 amount(s) and the maximum amount of \$110,000.00 for attorneys' fees and
4 \$25,000.00 for litigation costs shall be added to the Net Settlement Amount. As with
5 the Settlement Payments to the Settlement Class, the attorney's fees and costs
6 approved by the Court shall be paid to Class Counsel, within seven (7) business days
7 after Defendant deposits the Gross Settlement Amount into the QSF.
- 8 (c) The Parties agree that, over and above the total amount of the attorneys' fees and
9 litigation costs awarded to Class Counsel by the Court, Plaintiff and Defendant shall
10 each bear her/its own fees and costs incurred by her/it or arising out of this Action;
11 the negotiation, execution, or implementation of this Settlement; and/or the process
12 of obtaining, administering or challenging any Preliminary Approval Order, Final
13 Approval, and/or Judgment. The Parties will not seek reimbursement of any such
14 fees and/or costs from any party to this Agreement or any of the Released Parties.
- 15 (d) Any order, finding, ruling, holding or proceeding relating to any such applications
16 for attorneys' fees and litigation costs, or any separate appeal from any separate
17 order, finding, ruling, holding, or proceeding relating to them or reversal or
18 modification of them, shall not operate to terminate or cancel this Settlement. The
19 award of an attorneys' fees and costs award in the amounts sought is not a material
20 term of this Agreement and the award of any of these items at less than requested by
21 Class Counsel does not give rise to a basis to abrogate this Agreement.
- 22 (e) In the event that the Court awards less than 25% of the Gross Settlement Amount
23 for attorney's fees, Class Counsel shall retain the right to appeal that portion of any
24 Final Approval Order and Judgment. While Class Counsel retains the right to appeal
25 any such reductions, such appeal will delay Defendant's obligation to make all
26 payments set forth in this Agreement. If, after the exhaustion of any such appellate
27 review, additional amounts not awarded to as attorneys' fees and litigation costs and
28 expenses shall be added to the Net Settlement Amount to be distributed to Settlement

1 Class Members.

- 2 (f) All claims for attorneys' fees and costs that Class Counsel, Plaintiff, the Settlement
3 Class Members and the PAGA Employees may possess against Defendant have
4 been compromised and resolved in this Settlement and shall not be affected by any
5 appeal that Class Counsel may file.
- 6 (g) Class Counsel shall be solely responsible for the division and distribution of any and
7 all Court-approved attorneys' fees and litigation costs between or among Class
8 Counsel and any other attorney representing or claiming to represent Plaintiff, any
9 other Class Member and/or any other PAGA Employee. Class Counsel agrees to
10 release Defendant and the Released Parties from any responsibility for or liability
11 arising out of or related to the division and distribution of any Court-approved
12 attorneys' fees and litigation costs.

13 **THE NOTICE PROCESS**

14 57. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the
15 Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice
16 shall be translated into Spanish so that Spanish and English language versions of the Notice are included in
17 the mailing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the
18 Settlement Administrator to forward the Notices to the Class.

- 19 (a) Within fourteen (14) calendar days from the Preliminary Approval Date, Defendant
20 shall provide to the Settlement Administrator in a readable Microsoft Office Excel
21 spreadsheet the Class List and Data based on Defendant's payroll and other business
22 records. The Class List and Data provided to the Settlement Administrator will not
23 be provided to Class Counsel and it will remain confidential, it shall be used solely
24 to administer the Settlement, and it will not be used or disclosed to anyone, except
25 as required by applicable tax authorities, pursuant to Defendant's express written
26 consent, or by order of the Court. The Settlement Administrator will run a check of
27 the Class Members' addresses against those on file with the U.S. Postal Service's
28 National Change of Address List; this check will be performed only once per Class

Member by the Settlement Administrator.

- (b) Within ten (10) calendar days after the Class List and Data is provided to the Settlement Administrator, the Settlement Administrator will mail the Notices to the Class Members by First Class United States mail.
- (c) It will be conclusively presumed that if an envelope has not been returned within thirty (30) days of the mailing that the Class Member received the Notice.
- (d) Notices returned to the Settlement Administrator as non-deliverable on or before the initial Response Deadline shall be resent to the forwarding address, if any, on the returned envelope. A returned Notice will be forwarded by the Settlement Administrator any time that a forwarding address is provided with the returned mail. If there is no forwarding address, the Settlement Administrator will do a computer search for a new address using the Class Member's social security number or other information. In any instance where a Notice is re-mailed, that Class Member will have until the extended Response Deadline as described in Paragraph 32 herein. A letter prepared by the Settlement Administrator will be included in the re-mailed Notice in that instance, stating the extended Response Deadline. Upon completion of these steps by the Settlement Administrator, Defendant and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Notice to the affected Class Member. The affected Class Member shall remain a member of the Settlement Class and shall be bound by all the terms of the Settlement and the Court's Order and Final Judgment.
- (e) Class Counsel shall provide to the Court, a declaration by the Settlement Administrator of due diligence, number of exclusions, objections, disputes, and confirming mailing of the Notices attached with the motion for final approval.

DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS

58. Upon receipt of Gross Settlement Amount from Defendant, the Settlement Administrator will issue and send out the Settlement Payment checks to the Class Members as provided herein. Settlement Class Payments and PAGA Payments may be combined into one check. Settlement Payment checks shall

1 remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment
2 checks will automatically be cancelled by the Settlement Administrator if they are not cashed, deposited or
3 otherwise negotiated by the Class Member within that time. Settlement Payment checks which have expired
4 will not be reissued. In the event that any settlement check is returned to the Settlement Administrator within
5 180 days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the
6 returned settlement check, perform a skip trace to locate the individual. If a new address is located by these
7 means, the Administrator will have ten (10) business days to re-issue the check. The Settlement
8 Administrator shall provide notice to Class Counsel and Defendant's Counsel of any settlement checks
9 remaining un-cashed for more than 180 calendar days. Neither Defendant, Defendant's Counsel, Class
10 Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement
11 checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without
12 limiting the foregoing, in the event a Settlement Class Member notifies the Settlement Administrator that
13 he/she/they believe that a settlement check has been lost or stolen, the Settlement Administrator shall
14 immediately stop payment on such check. If the check in question has not been negotiated prior to the stop
15 payment order, the Settlement Administrator will issue a replacement check.

16 59. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void date,
17 shall be transmitted to the California State Controller's Office pursuant to California's Unclaimed Property
18 Law in the name of each Class Member who failed to cash their Settlement Payment, which would permit
19 any such Class Members to claim their checks at a later date.

20 60. Upon completion of its calculation of Settlement Payments, the Settlement Administrator shall
21 provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to be made
22 to Class Members (to be identified anonymously by employee number or other identifier). A declaration
23 attesting to completion of all payment obligations will be provided to Class Counsel and Defendant's
24 Counsel and filed with the Court by Class Counsel.

25 61. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class
26 Counsel, or the Settlement Administrator based on mailings, distributions, payments, or reports made in
27 accordance with or pursuant to this Agreement. This provision does not, however, prevent a Party from
28 seeking enforcement of this Agreement.

1 **RELEASE BY CLASS REPRESENTATIVE**

2 62. In addition to Class Representative's release of the Released Class Claims and Released PAGA
3 Claims, as discussed in Paragraph 66 and its subparts herein, Class Representative does hereby, for himself
4 and for his respective spouses, domestic partners, marital community, children, estates, trusts, attorneys,
5 heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators,
6 guardians, assigns, and representatives, forever completely release and discharge the Released Parties from
7 any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts,
8 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses
9 (including for back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages,
10 interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the
11 execution of this Agreement, whether known or unknown, suspected or unsuspected, concealed or hidden,
12 including but not limited to all claims arising out of, based upon, or relating to Class Representative's
13 employment with Defendant or the remuneration for or termination of such employment (collectively, the
14 "Class Representative's Released Claims").

15 63. Class Representative expressly waives and relinquishes all rights and benefits afforded by
16 Section 1542 of the Civil Code of the State of California and do so understanding and acknowledging the
17 significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

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

23 64. Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and
24 complete release and discharge of all parties, Class Representative, and Class Counsel expressly
25 acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims
26 that Class Representative knew of, as well as all claims that he does not know or suspect to exist in his favor
27 against the Released Parties, or any of them, for the time period from the beginning of time to the execution
28 of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any

1 such Class Representative's Released Claims.

2 65. Notwithstanding anything in this Agreement to the contrary, nothing contained herein shall
3 constitute a waiver or release by Class Representative of any claim for workers' compensation benefits or
4 any other claim which cannot be legally waived. Class Representative hereby agrees not to bring or
5 participate in any class or collective action against Defendant or any Released Party that asserts, in whole or
6 in part, any claims that arose before he signed this Agreement, whether or not such claims (if brought by
7 him individually) are released by this Agreement. Nothing in this Agreement prohibits Class Representative
8 from reporting possible violations of federal or state law or regulation to the government, including but not
9 limited to the EEOC, Department of Justice, Securities and Exchange Commission, Congress, and any
10 agency inspector general, or filing a charge with or participating in an investigation or proceeding conducted
11 by the EEOC or a comparable state or local agency (collectively, any such activity shall be referred to as a
12 "Government Report"). However, by signing this Agreement, Class Representative understands and agrees
13 that he is waiving the right to receive any award of monetary or other benefits or any other legal or equitable
14 relief whatsoever, including but not limited to payment for attorneys' fees, costs or disbursements, resulting
15 from any such proceeding by Class Representative, anyone else on his behalf, or otherwise, unless this
16 Agreement is invalidated. Class Representative agrees to waive such personal relief even if it is sought on
17 his behalf by an agency, a governmental authority, or a person claiming to represent him and/or any member
18 of a class.

19 **RELEASE BY THE CLASS**

20 66. The Parties agree that it is their intent that the terms set forth in this Agreement will release any
21 further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind
22 by each and all of the Settlement Class Members (including participation to any extent in any class or
23 collective action), to obtain a recovery arising out of each and all of the claims, causes of action, demands,
24 damages, penalties, and/or liabilities arising at any time during the Class Period that were pled or which
25 could have been pled based on the factual allegations contained in the Complaint, as set forth in more detail
26 in subparts (a) through (d) of this Paragraph 66 herein. Upon the Effective Date of this Settlement, and
27 except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class
28 and each Class Member who has not submitted a valid and timely Request for Exclusion as to Class Claims

other than the PAGA Claims, will release claims as follows:

- (a) Release of Class Claims. Upon the Effective Date of this Settlement, Plaintiff and each Settlement Class Member, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released Class Claims. Each Settlement Class Member will be deemed to have made this Release as if by manually signing it. The Notice will advise all Settlement Class Members of the binding nature of this Release and such Notice shall have the same force and effect as if the Agreement were executed by each Settlement Class Member. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released Class Claim.
- (b) Release of PAGA Claims. Upon the Effective Date of this Settlement, Plaintiff, the LWDA, and each PAGA Employee, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released PAGA Claims. Each PAGA Employee and the LWDA will be deemed to have made this Release as if by manually signing it, whether they timely submit a Request for Exclusion from the Settlement Class or not. The Notice will advise all PAGA Employees of the binding nature of this Release and such Notice shall have the same force and effect as if the Agreement were executed by each PAGA Employee. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released PAGA Claim.

1 (c) Binding Effect on Settlement Class Members. Except for those Class Members who
2 timely submit a Request for Exclusion as set forth in Paragraph 50(x) herein, all
3 Class Members will: (i) be deemed to be Settlement Class Members for all purposes
4 under this Agreement; (ii) will be bound by the terms and conditions of this
5 Agreement, the Judgment, and the Release set forth herein, regardless of whether
6 they cash, deposit or negotiate their settlement checks within the 180-day period;
7 and (iii) except as otherwise provided herein, will be deemed to have waived all
8 objections and oppositions to the fairness, reasonableness, and adequacy of the
9 Settlement.

10 (d) Binding Effect on PAGA Employees and the LWDA. The PAGA Released Claims
11 are released by Class Representative in his representative capacity as authorized
12 proxy and agent for the State of California and the LWDA and as a private attorney
13 general “aggrieved employee” acting on behalf of himself and all PAGA Employees.
14 The Release of PAGA Released Claims will therefore be binding upon all PAGA
15 Employees, regardless of whether they cash, deposit, or negotiate their settlement
16 checks within the 180-day period.

17 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

18 67. The Parties shall submit this Agreement to the Court in support of Plaintiff’s unopposed motion
19 for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness.
20 Upon execution of this Agreement, Plaintiff shall apply to the Court for the entry of an order:

- 21 (a) Scheduling a final approval and fairness hearing on the question of whether the
22 proposed Settlement, including payment of attorney’s fees and costs, and the Class
23 Representative’s Service Payment, should be finally approved as fair, reasonable,
24 and adequate as to the members of the Class;
- 25 (b) Certifying a Class for purposes of the Settlement only;
- 26 (c) Approving as to form and content the proposed Notice;
- 27 (d) Directing the mailing of the Notice;
- 28 (e) Preliminarily approving the Settlement subject only to the objections of Class

Members and final review by the Court;

(f) Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,

(g) Appointing Simpluris as the Settlement Administrator, and order the Settlement Administrator to issue Notices as outlined above.

68. Defendant shall not oppose Plaintiff's motions for preliminary approval and final approval of the Settlement so long as the motions and supporting papers are consistent with the terms of the Settlement Agreement. Class Counsel shall provide Defendant with five (5) days to review, and provide comments to the motions for preliminary and final approval and proposed orders before they are filed with the Court.

69. In accordance with section 2699(1)(2) of the California Labor Code, Plaintiff shall provide a copy of this Settlement Agreement to the LWDA on or before the date Plaintiff files his motion for preliminary approval of this Settlement with the Court.

70. In the event the Court declines, on its first hearing, to approve this Agreement because the PAGA Allocation is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within the Gross Settlement Amount, to try to achieve Final Approval of the Agreement upon any subsequent Court hearings.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

71. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will provide to Defendant's Counsel for review and approval and then submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application to the Court for an award of attorney's fees and costs;
- (c) Approving the Service Payment to the Class Representative;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.

- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action, thereby permanently barring all Settlement Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all PAGA Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties;
- (g) Adjudging that notwithstanding the submission of any timely Requests for Exclusion, Class Members are still bound by the Settlement and Release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirms that the State's claims for civil penalties pursuant to PAGA are also extinguished;
- (h) Directing the mailing of the final judgment directly to the Settlement Class Members along with their payments.

Any revised final judgments will also be provided to Defendant's Counsel for review and approval before they are submitted to the Court.

72. In accordance with section 2699(1)(3) of the California Labor Code, Plaintiff shall provide to the LWDA a copy of the Final Approval Order and Judgment entered by the Court in this action within ten (10) days after entry of the Final Approval Order and Judgment.

NULLIFICATION AND TERMINATION

73. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of Service Payments; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered void; or (e) the Effective Date does not occur for any reason.

74. At Defendant's sole discretion, it shall have the right to withdraw from or rescind the Settlement Agreement at any time prior to Final Approval if: (a) 5% or more of all Class Members submit valid and

1 timely Requests for Exclusion, provided that Defendant exercises this right of rescission, in writing, to
2 Plaintiff's counsel within fifteen (15) calendar days after Response Deadline and the Settlement
3 Administrator notifies the Parties of the total number of Requests for Exclusion; (b) the Settlement is
4 construed by the Court in such a fashion that Defendant would be required to pay more than the Gross
5 Settlement Amount; (c) the Court does not approve the Settlement; (d) the Court does not certify the
6 Settlement Class, does not certify a class releasing the claims set forth herein, or otherwise makes an order
7 inconsistent with any of the terms of the Settlement Agreement; (e) Plaintiff or Class Counsel breach any
8 term in the Settlement Agreement, or (f) the LWDA or any other state or governmental agency seeks to
9 intervene or commences an enforcement action. If this option is exercised by Defendant, Defendant shall
10 be solely responsible for the costs incurred by the Settlement Administrator for the settlement administration.

11 75. The Parties enter into this Agreement on a conditional basis. If the Court does not enter the Final
12 Approval Order and Judgment or the Effective Date does not occur, this Agreement shall be deemed null
13 and void *ab initio*, and shall be of no force or effect whatsoever, the Parties shall be returned to their
14 respective positions as if no settlement had been contemplated, and no party may use the fact that the Parties
15 agreed to settle, or the terms provided herein as an admission, as evidence, or for any other purpose,
16 including, without limitation, to prove any liability or the amount of any sum allegedly owed by any party.

17 76. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement shall
18 be considered null and void, (ii) neither this Settlement nor any of the related negotiations or proceedings
19 shall have any force or effect and no party shall be bound by any of its terms, and (iii) all Parties to this
20 Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered
21 into nor filed with the Court. Plaintiff and Class Counsel agree that Defendant retains and reserves all rights
22 to challenge all causes of action alleged in the Action upon all procedural and factual grounds, as well as
23 asserting any and all other potential defenses and/or privileges.

24 77. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further
25 obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement
26 Amount, or any amounts that otherwise would have been owed under this Settlement.

27 78. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement
28 Administrator shall be borne equally by Defendant and Plaintiff, unless otherwise specified in this

1 Agreement.

2 **PARTIES' AUTHORITY AND WAIVER**

3 79. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement
4 and bind the Parties hereto to the terms and conditions thereof.

5 80. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed
6 a waiver of any other prior or subsequent breach of this Agreement.

7 **WAIVER OF APPEALS**

8 81. The Parties agree to waive appeals and to stipulate to class certification for purposes of
9 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the
10 amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the
11 Gross Settlement Amount as attorney's fees. Subject to the Preliminary Approval Order and Final Approval,
12 Plaintiff and all Class Members, except those Class Members who timely and properly intervene or file a
13 motion to vacate the Judgment, expressly waive the right to appeal.

14 **NO ADMISSION OF LIABILITY**

15 82. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed
16 an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies
17 each and all of the claims and contentions alleged by the Plaintiff in the Action. The Defendant has entered
18 into this Settlement solely with the intention to avoid further disputes and litigation with the attendant
19 inconvenience and expenses.

20 83. Whether or not the Court grants Final Approval, nothing contained herein, nor the
21 consummation of this Agreement, is to be construed or deemed an admission of liability, culpability,
22 negligence, or wrongdoing whatsoever on the part of Defendant or any of the other Released Parties. This
23 Settlement Agreement is a settlement document, and it, along with all related documents such as the notices,
24 and motions for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
25 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or
26 proceeding to approve the Settlement, and/or interpret or enforce this Settlement Agreement. The stipulation
27 for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any
28 reason the Settlement is not approved, the stipulation will be of no force or effect.

1 **MUTUAL FULL COOPERATION**

2 84. The Parties agree to fully cooperate with each other to promote participation in the Settlement
3 and accomplish the terms of this Settlement including, but not limited to, execution of such documents and
4 taking such other action as reasonably may be necessary to implement the terms of this Settlement. The
5 Parties and their counsel agree: (a) not to take any action to solicit or encourage any Class Members to opt
6 out of and/or object to the Settlement, and (b) not to discourage any Class Members from cashing, depositing
7 or otherwise negotiating their Settlement Payment checks. The Parties will fully support this Agreement's
8 approval and enforcement and will defend the Agreement from any legal challenge.

9 85. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by
10 this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to
11 effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this
12 Settlement, Class Counsel shall, with the assistance and cooperation of Defendant and Defendant's Counsel,
13 take all necessary steps to secure the Court's preliminary and final approval of this Settlement.

14 **NO PRIOR ASSIGNMENTS**

15 86. The Parties and their respective counsel represent, covenant, and warrant that they have not
16 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
17 person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released
18 and discharged.

19 **ENFORCEMENT ACTIONS**

20 87. In the event that one or more of the Parties to this Settlement institutes any legal action or other
21 proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights
22 and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the
23 unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in
24 connection with any enforcement actions.

25 **NOTICES**

26 88. Unless otherwise specifically provided herein, all notices, demands or other communications
27 given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day
28 after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Class Counsel:

MOON LAW GROUP, PC
Kane Moon (SBN 249834)
Lilit Ter-Astvatsatryan (SBN 320389)
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Counsel for Defendant:

Krista M. Cabrera (SBN 190595)
kcabrera@foley.com
FOLEY & LARDNER LLP
11988 El Camino Real, Suite 400
San Diego, CA 92130-2594
Telephone: (858) 847-6700
Facsimile: (858) 792-6773

CONSTRUCTION

89. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Settlement. Plaintiff and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

CAPTIONS AND INTERPRETATIONS

90. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

91. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

92. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

1 **NO KNOWLEDGE OF RELATED CASES**

2 93. Neither the Parties nor their counsel are aware of any potentially related cases, or cases with
3 partially or completely overlapping class definitions.

4 **BINDING ON ASSIGNS**

5 94. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their
6 respective heirs, trustees, executors, administrators, successors and assigns.

7 **CLASS COUNSEL SIGNATORIES**

8 95. It is agreed that because the members of the Class are so numerous, it is impossible or impractical
9 to have each member of the Class execute this Settlement. The Notice will advise all Class Members of the
10 binding nature of the Released Class Claims and Released PAGA Claims, and the release shall have the
11 same force and effect as if this Settlement were executed by each member of the Class.

12 **COUNTERPARTS**

13 96. This Settlement may be executed in counterparts and by electronic or facsimile signatures, and
14 when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed
15 an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which
16 shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and
17 effect as an original.

18 **CONFIDENTIALITY & PUBLIC COMMENT**

19 97. Neither Plaintiff nor his counsel shall issue any press release or announcement of any kind
20 related in any way to the Settlement. Plaintiff and his counsel further agree that, prior to filing the motion
21 for preliminary approval of the Settlement, they will keep the terms of this Settlement confidential. From
22 and after the filing of the motion for preliminary approval of the Settlement, Plaintiff and his counsel may:
23 (1) as required by law; (2) as required under the terms of the Settlement, or (3) as required under counsel's
24 duties and responsibilities as Class Counsel, comment regarding the specific terms of the Settlement. In all
25 other cases, Plaintiff and his counsel agree to limit their statements regarding the terms of the Settlement,
26 whether oral, written or electronic (including the world wide web), to say the Action has been resolved and
27 that Plaintiff and his counsel are satisfied with the Settlement terms. Nothing in this Paragraph 60 is intended
28 to interfere with Plaintiff's counsel's duties and obligations to faithfully discharge their duties as Class

Counsel, including but not limited to, communicating with the Settlement Class Members regarding the Settlement.

FINAL JUDGMENT

98. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Representative Settlement Agreement and Release of Claims between Plaintiff and Defendant as set forth below:

IT IS SO STIPULATED.

[Signature Page Follows]

Plaintiff & Class Representative:

Dated: By: _____
OSVALDO VARGAS

Plaintiff's Counsel:

Dated: MOON LAW GROUP, PC
By: _____
Kane Moon
Lilit Ter-Astvatsatryan

Defendant:

Dated: BLUE LINE FOODSERVICE DISTRIBUTION, INC.

By: _____
Name/Title

Signature

Defendant's Counsel:

Dated: FOLEY & LARDNER LLP

Counsel, including but not limited to, communicating with the Settlement Class Members regarding the Settlement.

FINAL JUDGMENT

98. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

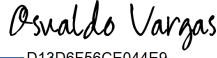
IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Representative Settlement Agreement and Release of Claims between Plaintiff and Defendant as set forth below:

IT IS SO STIPULATED.

[Signature Page Follows]

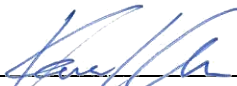
Plaintiff & Class Representative:

Dated: 3/18/2025

Signed by:

 By: D13D6F56CE044E9...
 OSVALDO VARGAS

Plaintiff's Counsel:

Dated: 3/18/2025

MOON LAW GROUP, PC
 By: 
 Kane Moon
 Lilit Ter-Astvatsatryan

Defendant:

Dated: 4/1/2025

BLUE LINE FOODSERVICE DISTRIBUTION, INC.

By: Erin Martin General Counsel
 Name/Title


 Signature

Defendant's Counsel:

Dated: 3/25/2025

FOLEY & LARDNER LLP

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By: 

Krista M. Cabrera

EXHIBIT A

NOTICE OF PENDENCY OF CLASS ACTION AND PAGA REPRESENTATIVE SETTLEMENT

Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc.
Superior Court of the State of California, County of Orange
Case No. 30-2023-01328202-CU-OE-CXC

To: all individuals who performed work in any non-exempt, hourly position for Defendant Blue Line Foodservice Distribution, Inc. (“Blue Line”) in the State of California at any time between May 25, 2019, through January 29, 2025 (the “Class”):

THIS NOTICE is of a proposed settlement of a class action lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on [REDACTED], 2025 to address whether the proposed settlement should be approved (the “Final Approval Hearing”). You may be entitled to receive a payment under the terms of this settlement contained in the Joint Stipulation of Class Action and PAGA Representative Action Settlement Agreement and Release of Claims (the “Settlement” or “Agreement”).

[CLASS MEMBER IDENTIFYING INFORMATION]

A Settlement has been reached between Oswaldo Vargas (“Plaintiff” or “Class Representative”) and Blue Line in an action pending in the Superior Court of the State of California, for the County of Orange (the “Court”). Plaintiff is pursuing this action on behalf of himself and all individuals who performed work in any non-exempt, hourly position for Blue Line in California at any time during the Class Period (the “Class” or “Class Members”). The “Class Period” is May 25, 2019, through January 29, 2025. Plaintiff is also pursuing the action on behalf of himself, the State of California, and all individuals who performed work in any non-exempt, hourly position for Blue Line in California at any time during the PAGA Period (“PAGA Employees”) seeking civil penalties pursuant to the Private Attorneys’ General Act of 2004, California Labor Code section 2698 et seq. (“PAGA”). The “PAGA Period” is May 21, 2022, through January 29, 2025.

You are receiving this notice because you have been identified as a Class Member [and/or a “PAGA Employee”]. Under the terms of the proposed Settlement you are estimated to receive approximately \$INSERT AMOUNT as your share of the Net Settlement Amount should the Court grant approval of the Settlement in full. Please note that this is only an estimate. Your actual share of the Net Settlement Amount may be more or less than this estimate. As discussed in more detail in Section IV, your estimate is based on the number of eligible weeks you worked in a non-exempt position at Blue Line in California during the Class Period as compared to weeks worked by all Class Members during this Class Period. Your options and eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you want to receive your settlement payment, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section IV.
EXCLUDE YOURSELF	If you do not wish to participate in the Settlement, you may “opt-out” of the Settlement. If you choose to opt-out, you must submit a Request for Exclusion by [REDACTED], 2025 (see Section V for more details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you will (1) <u>not</u> receive any settlement payment, but you will preserve your right to pursue the Released Class Claims described in Section IV subject to applicable statutes of limitations, and (2) be barred from filing an objection to the Settlement. However, you may <i>not</i> exclude yourself from being a PAGA Employee. As such, if you are entitled to any payment under PAGA (as detailed on page 4), you are releasing your PAGA Claims, and you will receive your portion of the PAGA Settlement Payment, even if you exclude yourself from being a Settlement Class Member.

OBJECT	If you decide to object to the Settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the Settlement by 2025 (see Section V for more details on how to object).
DISPUTE YOUR NUMBER OF WORKWEEKS	If you believe that your number of Workweeks listed above is incorrect, you may contact the Settlement Administrator to dispute your Workweek calculation (see Section IV for more details on how to dispute your Work Weeks). Defendant's records will be presumed correct, but you may provide evidence to the Settlement Administrator showing that your Workweek calculation is inaccurate.

I. Why should I read this Notice?

The Court has granted preliminary approval of the proposed Settlement in *Osvaldo Vargas v. Blue Line Foodservice Distribution, Inc.* Orange County Superior Court Case No. 30-2023-01328202-CU-OE-CXC (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

Blue Line's records show that you were employed in California as a non-exempt, hourly employee (meaning you were paid hourly or otherwise eligible for overtime pay) at some point during the Class Period. The Court ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you were employed by Blue Line as a non-exempt employee in California at any time during the Class Period, you are automatically included in the Settlement and do not need to take any further action to receive a payment.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, and to discuss your rights and options in connection with the Lawsuit and the Settlement.

II. What is this lawsuit about?

On May 24, 2023, Plaintiff and Class Representative Osvaldo Vargas, through his attorneys ("Class Counsel"), filed a class action complaint against Blue Line for alleged wage and hour violations on behalf of all current and former non-exempt employees who were employed by Blue Line in California at any time since May 25, 2019. Plaintiff alleges that Blue Line violated various Labor Code sections by failing to pay wages for all hours worked, provide all required meal and rest breaks, timely pay final wages, provide accurate and complete wage statements, and other related claims. On October 26, 2023, Plaintiff amended his complaint to allege penalties for the wage and hour violations under the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Blue Line has denied, and continues to deny, the factual and legal allegations in the Lawsuit and maintains that it has complied with all laws. Blue Line believes that it has valid defenses to Plaintiff's claims, and denies that it owes any wages, expenses, restitution, penalties, or other damages to any of its current and/or former employees for the conduct alleged in the Lawsuit. By agreeing to settle, Blue Line is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. To the contrary, this Settlement constitutes a compromise of disputed claims.

The Court has not ruled on the merits of Plaintiff's claims or whether the Lawsuit is suitable for treatment as a class and/or representative action. And, by approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. However, to avoid additional expense, inconvenience, and risks of continued litigation, Blue Line and Plaintiff have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. After providing extensive information to Class Counsel, the Settlement was reached following an arm's length mediation. In these negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and determined that the proposed Settlement was a good option to resolve the disputed claims.

The Class Representative and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to Blue Line, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation. Blue Line agreed to and supports this Settlement in order to avoid the cost and business disruption associated with lengthy litigation.

If you are still employed by Blue Line, this Settlement will not affect your employment. California law strictly prohibits unlawful retaliation. Further, Blue Line will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member's participation or decision not to participate in this Settlement. If a Class Member does not participate, his/her/their share will be paid to those who do participate.

III. Who are the Class Members' attorneys?

Attorneys for the Class Members:

Kane Moon, Esq.
Kmoon@moonlawgroup.com
Lilit Ter-Astvatsatryan, Esq.
lilit@moonlawgroup.com
Moon Law Group, PC
725 S. Figueroa St., 31st Floor
Los Angeles, CA 90017
Tel: (213) 232-3128

IV. What are the terms of the Settlement?

On [PA DATE], the Court granted preliminary approval of the Settlement. Class Members who do not opt out of the Settlement (the "Settlement Class"), pursuant to the procedures set forth in this Notice, will be mailed a settlement check, and in exchange, will be bound by the terms of the Settlement and release of Class Claims as described in Section IV of this Notice.

Without admitting any wrongdoing, Blue Line has agreed to pay \$330,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit. The Parties agreed to the following payments from the Gross Settlement Amount:

Settlement Administration Costs. The Court has approved Simpluris to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, an estimated maximum of \$7,052.00 will be paid from the Gross Settlement Amount to pay the Settlement Administration Costs.

PAGA Penalty Payment to the California Labor Workforce and Development Agency. \$25,000.00 of the Gross Settlement Amount will be allocated in satisfaction of Plaintiff's claim on his own behalf and on behalf of the State of California and all PAGA Employees under the Private Attorneys General Act of 2004 ("PAGA"). Of this amount, \$18,750.00 will be paid to the California Labor Workforce and Development Agency ("LWDA") in satisfaction of the claims for penalties under PAGA, and the remaining \$6,250.00 will be included in the Net Settlement Amount to be divided between all PAGA Employees based on each PAGA Employee's proportionate workweeks during the PAGA Period.

Service Payment to Class Representative. Class Counsel will ask the Court to award Class Representative a Service Payment in the amount of \$5,000 to Osvaldo Vargas to compensate him for service and extra work provided on behalf of the Class Members and in exchange for a general release of claims. The Class Representative also may receive a share of the Settlement as a Class Member.

Class Counsel's Attorneys' Fees and Costs. Class Counsel have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Maximum Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or costs. Class Counsel will ask for fees of one-third (\$110,000.00) of the common fund Gross Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through finalization of the Settlement. Class Counsel also will ask for reimbursement of up to \$25,000 for the costs Class Counsel incurred in connection with the Lawsuit.

Calculation of Individual Settlement Payments to Class Members. After deducting the amounts above from the Gross Settlement Amount, the balance will form the Net Settlement Amount for distribution to Settlement Class Members (who are

Class Members who do not opt-out). The Net Settlement Amount will total approximately \$ [REDACTED]. Each Settlement Class Member will be paid a pro-rata share of the Net Settlement Amount (less the PAGA Settlement Payment), based on each Settlement Class Member's proportionate Workweeks during the Class Period. A Workweek includes any week in which a Class Member worked in a non-exempt position at least one shift/day during the week. To calculate each Individual Settlement Payment, the Settlement Administrator will divide the total Workweeks of all Settlement Class Members into the Net Settlement Amount to determine a per "Workweek Value". The Workweek Value will be multiplied by the number of Workweeks worked by each Settlement Class Member during the Class Period to determine the Individual Settlement Payment, prior to legal deductions, for each Settlement Class Member. Employees who were employed as drivers will be paid workweek amount that is 50% of the workweek amount for non-drivers. If any Settlement Class Member opts-out of the Settlement, his/her/their Individual Settlement Payment will be distributed to all Settlement Class Members (i.e., those who do not opt-out).

For each Settlement Class Member, the Workweeks at BlueLine during the Class Period will be calculated from Blue Line's records. Blue Line's records indicate that you worked for [TOTAL WORKWEEKS] Workweeks in a non-exempt position in California during the Class Period of May 25, 2019, through January 29, 2025. If you disagree with this number, you may submit evidence to the Settlement Administrator on or before [REDACTED], 2025, with documentation to establish the number of weeks you claim to have actually worked in a non-exempt position for Blue Line in California between May 25, 2019, and January 29, 2025(excluding any leaves of absence). **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Parties and the Settlement Administrator will evaluate the evidence submitted by the Class Member. If the Parties are unable to agree, the Settlement Administrator render a final decision.

Calculation of Individual Settlement Payments to PAGA Employees. The PAGA Allocation (a total of \$25,000.00) will be distributed to the California Labor and Workforce Development Agency ("LWDA") and to the PAGA Employees. In accordance with California law, 75 percent of the PAGA Allocation (or \$18,750.00) will be paid to the LWDA and the remaining 25 percent of the PAGA Allocation (or \$6,250.00) will paid to the PAGA Employees on a pro-rata basis (the "Individual PAGA Settlement Payments") based on the number of pay periods each PAGA Employee worked for Blue Line in a non-exempt position in California during the PAGA Period. Your estimated individual pay periods during the PAGA Period and estimated PAGA Settlement Payment are listed below:

Blue Line records indicate that you worked a total of <<PAGA Pay Periods>> in a non-exempt position in California during the PAGA Period. Based on your pay periods during the PAGA Period, your estimated PAGA Settlement Payment is approximately \$<<Est PAGA Settlement Payment>>.

Even if you opt-out of this Settlement, you will still receive a PAGA Settlement Payment and release claims under PAGA because California law does not allow an employee to request exclusion from a PAGA release.

Payments to Settlement Class Members. After the Court grants Final Approval of the Settlement and Judgment is entered, settlement checks will be mailed to all Settlement Class Members (i.e., those who do not opt-out). Settlement Class Members will have 180 days from the issuance of the last check to cash all of the checks. In the event that any Settlement Class Member fails to timely cash a settlement check, a stop payment will be placed on the check and the funds will be paid to the California State Controller's Office in the name of the Settlement Class Member, so that the Settlement Class Member can attempt to collect the funds at a later date.

Allocation and Taxes. Ten percent (10%) of the Individual Settlement Payment distributed to each Settlement Class Member is in settlement of wage claims and will therefore be reported as wages on an IRS Form W-2 and comparable state forms. The remaining ninety percent (90%) is in settlement of civil penalties, interest and other non-wage claims and will therefore be reported on an IRS Form 1099. One hundred percent (100%) of the PAGA Settlement Payment distributed to each PAGA Employee is in settlement of civil penalties with IRS Form 1099 reporting. The Settlement Administrator shall take all usual and customary deductions from the Individual Settlement Payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest and penalty distribution; however, it will be reported on IRS Form 1099 as income. Settlement Class Members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Settlement Administrator, Blue Line and its counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Payments. Settlement Class Members will be solely responsible for the payment of any taxes and penalties assessed on their Individual Settlement Payments. Accordingly, Settlement Class

Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release made by Class Members. If the Court approves the Settlement, the Court will enter Judgment, and the Settlement Agreement will bind all Class Members who have not opted out of the Settlement, and will bar them from bringing certain claims against Blue Line. Specifically, the Settlement Class Members will fully release and discharge Blue Line, together with each of its past, and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (collectively, “Released Parties”), from any and all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff’s First Amended Complaint, or any subsequent amended complaint including claims for: (i) failure to pay minimum wages in violation of Labor Code §§ 204, 1194, 1194.2 and 1197; (ii) failure to pay overtime compensation in violation of Labor Code §§ 1194 and 1198; (iii) failure to provide meal periods in violation of Labor Code §§ 226.7 and 512; (iv) failure to authorize and permit rest breaks in violation of Labor Code §§ 226.7; (v) failure to indemnify necessary business expenses in violation of Labor Code §§ 2802; (vi) failure to timely pay final wages at termination in violation of Labor Code §§ 201-203; (vii) failure to provide accurate itemized wage statements in violation of Labor Code § 226; (viii) unfair business practices in violation of Cal. Business & Professions Code §§ 17200 (collectively, the “Released Class Claims”). The Released Class Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California’s Business and Professions Code §§ 17200). The Released Class Claims include all types of relief available for the Released Class Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. The time period governing these Released Class Claims shall be at any time during the Class Period. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any Released Class Claims if raised in the future. Each Settlement Class Member will be bound by the foregoing Release of Class Claims, and this Notice shall have the same force and effect as if the Settlement Agreement containing this Release of Class Claims was executed by each Settlement Class Member.

Opt-In to Release Under Fair Labor Standards Act: A Class Member opts-in to a settlement of claims for unpaid compensation under the Fair Labor Standards Act (“FLSA”) by cashing, depositing, or otherwise negotiating the check for their Settlement Class Payment. The signing and negotiation of your settlement check shall serve as your consent to join the action for purposes of releasing claims arising under the Fair Labor Standards Act that are related to the claims stated in the Action.

Release of PAGA Claims by PAGA Employees. If the Court approves the Settlement, the Court will enter Judgment, and the Settlement Agreement will bind the LWDA and all of the PAGA Employees, and will bar them from bringing certain PAGA claims against Blue Line and all of the Released Parties, whether the PAGA Employee timely submits a valid request for exclusion from the Settlement Class or not. Specifically, after Final Approval by the Court, the Settlement will fully and finally release and discharge Blue Line and all of the Released Parties from any and all claims, causes of action, demands, damages, or liabilities under the Private Attorneys General Act of 2004, Labor Code section 2698 *et seq.*, arising at any time during the PAGA Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff’s First Amended Complaint including claims premised on the alleged Labor Code violations identified in the Lawsuit (collectively, the “PAGA Released Claims”). The PAGA Released Claims include all types of relief available for the PAGA Released Claims, including without limitation any claims for damages, penalties, fines, attorneys’ fees, costs, expenses or interest. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any PAGA Released Claims if raised in the future. Each PAGA Employee will be bound by the foregoing Release of PAGA Claims, and this Notice shall have the same force and effect as if the Settlement Agreement containing this Release of PAGA Claims was executed by each PAGA Employee.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

V. What options do I have?

- A. **Do Nothing and Participate in the Settlement.** Under the Settlement, you will automatically receive an Individual Settlement Payment unless you exclude yourself from the settlement by following the opt-out procedure set forth below. If you disagree with the number of Workweeks, as described in this Notice, you may dispute the allocation

of the Settlement without excluding yourself or objecting, as described above. It is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or an Individual Settlement Payment.

If you are a current Blue Line employee, your decision as to whether or not to participate in this Settlement will not be considered by Blue Line and Blue Line will not take any adverse employment action against you based on your participation in the Settlement.

- B. **Exclude Yourself from the Settlement.** If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an “Exclusion Form” (enclosed herein) or a “Request for Exclusion from the Class Action Settlement” letter/card postmarked no later than [REDACTED], 2025 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE OSVALDO VARGAS V. BLUE LINE FOODSERVICE DISTRIBUTION, INC. LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Exclusion Form/Request for Exclusion directly to the Settlement Administrator, [ADDRESS], postmarked no later than [REDACTED], 2025. Any person who files a timely Request for Exclusion from the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive a Settlement Class Payment under this Settlement; and (3) will not be bound by this Settlement, or the Judgment. All PAGA Employees will receive a PAGA Settlement Payment.

- C. **Object to Settlement.** You also have the right to object to the terms of the Settlement if you believe they are unfair or unreasonable. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement as a Settlement Class Member. If you wish to object, you must submit a written objection stating your full name, address, telephone number, the case name and number, the name and address of your attorney(s) if you are represented, each specific reason in support of your objection, and any legal support for each objection. You must also include any documentation or evidence in support of the objection, if any. Objections must be in writing and mailed to the Settlement Administrator, [ADDRESS], by no later than [REDACTED], 2025. Objections that do not include all required information, or that are not submitted timely, will not be considered. **You need not object to the Settlement if you only dispute the number of Workweeks.**

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for [REDACTED], 2025, at [REDACTED] a.m. in Department CX-102 of the Orange County Superior Court, located at 751 West Santa Ana Blvd, Santa Ana, CA 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case. If you wish to appear at the Final Approval hearing, please contact Class Counsel or the Settlement Administrator in advance of the scheduled hearing to ensure that the hearing has not been continued by the Court.

If you object to the Settlement, you will remain a Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

VI. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties by each and all of: (a) the Settlement Class Members to obtain a recovery based on, arising out of and/or related to any and all of the Released Class Claims, and (b) the Aggrieved Employees and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the Released PAGA Claims. If you were employed by Blue Line in a non-exempt position in California at any time during the Class Period and do not elect to exclude yourself from the Settlement Class, you will be deemed to have

entered into this Release and to have released the above-described Released Class Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue and the releases will not take effect.

VII. What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement, and Class Counsel's request for attorneys' fees and reimbursement of documented litigation costs and the Service Payment to the Class Representative on [REDACTED], 2025 at [REDACTED] in Department CX-102 of the Orange County Superior Court, located at 751 West Santa Ana Blvd, Santa Ana, CA 92701.

This hearing may be continued or rescheduled by the Court without further notice to the Settlement Class. Settlement Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. **You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.**

VIII. How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Class Action Settlement Agreement (the Settlement Agreement), at Office of the Clerk, Orange County Superior Court, located at 751 West Santa Ana Blvd, Santa Ana, CA 92701, during regular court hours. You may also contact Class Counsel or the Settlement Administrator using the contact information listed above or visiting the Settlement Administrator's website at [REDACTED] for more information.

Information about this case is also available online by inputting the case number at the Court's website <https://www.occourts.org/online-services/case-access/> under the "Civil Case and Document Access" link.

IX. Reminder as to time limits.

Class Members do not have to take any further action to participate in the Settlement. The deadline for submitting a Request for Exclusion is [REDACTED], 2025. The deadline for mailing an objection to the Settlement Administrator is [REDACTED], 2025. These deadlines will be strictly enforced.

**PLEASE DO NOT CALL OR WRITE THE COURT
FOR INFORMATION ABOUT THIS SETTLEMENT**

EXHIBIT B

**[COMPLETE THIS FORM *ONLY IF* YOU
CHOOSE TO
NOT PARTICIPATE IN THIS SETTLEMENT AND
CHOOSE *NOT* TO RECEIVE A SETTLEMENT SHARE]**

“EXCLUSION FORM”

Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc.
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2023-01328202-CU-OE-CXC

INSTRUCTIONS: TO OPT-OUT OF THE SETTLEMENT, YOU MUST COMPLETE, SIGN AND MAIL THIS FORM BY FIRST CLASS U.S. MAIL OR EQUIVALENT, POSTAGE PAID, POSTMARKED ON OR BEFORE **[+60 DAYS FROM MAILING]**, ADDRESSED TO THE SETTLEMENT ADMINISTRATOR AS FOLLOWS:

INSERT ADMINISTRATOR INFO

Please fill in all of the following information (type or print):

NAME (First, Middle, Last): _____
STREET ADDRESS: _____
CITY, STATE, ZIP CODE: _____
TELEPHONE NUMBERS: Home: _____ Work: _____

**IT IS STRONGLY RECOMMENDED THAT YOU RETAIN PROOF OF MAILING
THIS FORM POSTMARKED ON OR BEFORE **[DATE]**.**

I [insert your name] _____ wish to be excluded from the Settlement Class in the case of *Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc., Orange County Superior Court, Case No. 30-2023-01328202-CU-OE-CXC*.

I understand I will not receive money from the proposed class action settlement. However, if I am a PAGA Employee, I will automatically receive a PAGA Settlement Payment.

I further verify that the following is true: My name, address and other contact information are accurately set forth above. I received and had the opportunity to read the Notice of Pendency of Class Action and PAGA Representative Settlement that were sent to me along with this Exclusion Form. I understand that by signing this form, I voluntarily choose to exclude myself from the proposed settlement of this class action. **I understand that by excluding myself, I may not accept any money allocated for me in the proposed settlement and may not object to the settlement.** On the other hand, I also understand that if I wish to assert any claims related to those set forth in this lawsuit in my individual capacity, I shall have to do so separately. I understand that any such claims are subject to strict time limits, known as statutes of limitations, which restrict the time within which I may file any such action. I understand that I should consult with an attorney at my own expense if I wish to obtain advice regarding my rights with respect to this settlement or my choice to opt out of the settlement. Blue Line Foodservice Distribution, Inc. has not encouraged me to opt out, and I choose to opt out of my own free will

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Signed: _____

Date: _____

Print Name: _____

Last four digits of Social Security Number _____

**[COMPLETE ESTE FORMULARIO *SOLO SI* USTED
ELIGE
NO PARTICIPAR EN ESTE ACUERDO Y
ELIGE NO RECIBIR UNA PARTICIPACIÓN DEL ACUERDO]**

“FORMULARIO DE EXCLUSIÓN”

Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc.
TRIBUNAL SUPERIOR DEL CONDADO DE ORANGE, CASO NO 30-2023-01328202-CU-OE-CXC

INSTRUCCIONES: PARA OPTAR POR NO PARTICIPAR EN EL ACUERDO, DEBE COMPLETAR, FIRMAR Y ENVIAR POR CORREO ESTE FORMULARIO POR CORREO DE PRIMERA CLASE DE EE.UU. O EQUIVALENTE, FRANQUEO PAGADO, CON SELLO POSTAL EN O ANTES DE **[+60 DÍAS DESDE EL ENVÍO]**, DIRIGIDO A
EL ADMINISTRADOR DEL ACUERDO DE LA SIGUIENTE MANERA:

INSERTAR INFORMACIÓN DE ADMINISTRADOR

Por favor, rellene toda la siguiente información (tipeado o en letra de imprenta):

NOMBRE (Primer, Medio, Apellido): _____
DIRECCIÓN POSTAL: _____
CIUDAD, ESTADO, CÓDIGO POSTAL: _____
NÚMEROS DE TELÉFONO: Residencial: _____ Trabajo: _____

**SE RECOMIENDA ENCARECIDAMENTE QUE CONSERVE LA PRUEBA DE ENVÍO DE ESTE
FORMULARIO CON EL SELLO POSTAL EN O ANTES DE **[FECHA]**.**

Yo, [Inserte su nombre] _____ deseo ser excluido de la Clase del Acuerdo en el caso de *Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc., Tribunal Superior del Condado de Orange, Caso No. 30-2023-01328202-CU-OE-CXC*.

Entiendo que no recibiré dinero del acuerdo de acción colectiva propuesto. Sin embargo, si soy un empleado de PAGA, recibiré automáticamente un pago del acuerdo de PAGA.

Verifico además que lo siguiente es cierto: Mi nombre, dirección y otra información de contacto se establecen con precisión arriba. Recibí y tuve la oportunidad de leer el Aviso de Pendencia de Acción de Clase y Acuerdo de Representante de PAGA que me fueron enviados junto con este formulario de exclusión. Entiendo que al firmar este formulario, voluntariamente elijo excluirme del acuerdo propuesto de esta acción colectiva. **Entiendo que al excluirme a mí mismo, no puedo aceptar ningún dinero asignado para mí en el acuerdo propuesto y no puedo objetar al acuerdo.** Por otro lado, también entiendo que si deseo hacer valer cualquier reclamo relacionada con los establecidos en esta demanda en mi capacidad individual, tendré que hacerlo por separado. Entiendo que cualquier reclamo de este tipo está sujeto a estrictos límites de tiempo, conocidos como estatutos de limitaciones, que restringen el tiempo dentro del cual puedo presentar cualquier acción de este tipo. Entiendo que debo consultar con un abogado a mi propio costo si deseo obtener asesoramiento con respecto a mis derechos sobre este acuerdo o mi opción de optar por no participar en el acuerdo. Blue Line Foodservice Distribution, Inc. no me ha animado a optar por no participar, y elijo optar por no hacerlo por mi propia voluntad

Declaro bajo pena de perjurio bajo las leyes del Estado de California que lo anterior es verdadero y correcto.

Firmado: _____

Fecha: _____

Nombre en letra de imprenta: _____

Últimos cuatro dígitos del número de Seguro Social _____

EXHIBIT C

**[COMPLETE THIS FORM ONLY IF YOU
CHOOSE TO
DISPUTE THE WORKWEEKS IN THE CLASS NOTICE]**

“WORKWEEK DISPUTE FORM”

Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc.
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2023-01328202-CU-OE-CXC

INSTRUCTIONS: TO DISPUTE THE NUMBER OF WORKWEEKS CALCULATED FOR YOU AS PART OF THE SETTLEMENT, YOU MUST COMPLETE, SIGN AND MAIL THIS FORM AND ALL SUPPORTING EVIDENCE BY FIRST CLASS U.S. MAIL OR EQUIVALENT, POSTAGE PAID, POSTMARKED ON OR BEFORE **[+60 DAYS FROM MAILING]**, ADDRESSED TO THE SETTLEMENT ADMINISTRATOR AS FOLLOWS:

INSERT ADMINISTRATOR INFO

Please fill in all of the following information (type or print):

NAME (First, Middle, Last): _____
STREET ADDRESS: _____
CITY, STATE, ZIP CODE: _____
TELEPHONE NUMBERS: Home: _____ Work: _____

**IT IS STRONGLY RECOMMENDED THAT YOU RETAIN PROOF OF MAILING
THIS FORM AND ALL SUPPORTING EVIDENCE POSTMARKED ON OR BEFORE **[DATE]**.**

I [insert your name] _____ wish to dispute the number of Workweeks calculated for me as part of the settlement in the case of *Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc., Orange County Superior Court, Case No. 30-2023-01328202-CU-OE-CXC*. Based on the evidence submitted with this form, the correct number of Workweeks is _____.

I arrived at the above number of Workweeks by relying on the following information and/or documents (please attach any records which support your contention that you worked more workweeks than those included in the Notice):

Please be advised the Court has approved the following method for resolving workweek disputes:

If you submit this form disputing the accuracy of Defendant’s records used to calculate Covered Workweeks, and the Parties’ counsel cannot resolve the dispute informally, the matter will be referred to the Settlement Administrator. The Settlement Administrator will review Defendant’s records and any information or documents submitted by You. The parties should file with the Court all disputes submitted by class members, the evidence submitted, and the resolution of those disputes. The Court shall have the right to review any decision made by the settlement administrator regarding a claim dispute. You must submit information or documents supporting your

position to the Settlement Administrator prior to <<the expiration of the response deadline>>. Information or documents submitted after the expiration of the Response Deadline will not be considered by the Settlement Administrator, unless otherwise agreed to by the Parties.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

Signed: _____

Date: _____

Print Name: _____

Last four digits of Social Security Number _____

**[COMPLETE ESTE FORMULARIO *SOLO SI* USTED
ELIGE *DISPUTAR* LAS SEMANAS DE TRABAJO EN EL AVISO DE CLASE]**

“FORMULARIO DE DISPUTA DE SEMANAS DE TRABAJO”

Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc.
TRIBUNAL SUPERIOR DEL CONDADO DE ORANGE, CASO NO 30-2023-01328202-CU-OE-CXC

INSTRUCCIONES: PARA DISPUTAR EL NÚMERO DE SEMANAS DE TRABAJO CALCULADAS PARA USTED COMO PARTE DEL ACUERDO, DEBE COMPLETAR, FIRMAR Y ENVIAR POR CORREO ESTE FORMULARIO Y TODA LA EVIDENCIA DE RESPALDO POR CORREO DE PRIMERA CLASE DE EE.UU. O EQUIVALENTE, FRANQUEO PAGADO, SELLADO POSTAL EN O ANTES **[+60 DÍAS DESDE EL ENVÍO]**, DIRIGIDO AL ADMINISTRADOR DEL ACUERDO DE LA SIGUIENTE MANERA:

INSERTAR INFORMACIÓN DE ADMINISTRADOR

Por favor, rellene toda la siguiente información (tipeado o en letra de imprenta):

NOMBRE (Primer, Medio, Apellido): _____
DIRECCIÓN POSTAL: _____
CIUDAD, ESTADO, CÓDIGO POSTAL: _____
NÚMEROS DE TELÉFONO: Residencial: _____ Trabajo: _____

**SE RECOMIENDA ENCARECIDAMENTE QUE CONSERVE LA PRUEBA DE ENVÍO DE
ESTE FORMULARIO POR CORREO Y TODA LA EVIDENCIA DE RESPALDO CON SELLO
POSTAL EN O ANTES DE **[FECHA]**.**

Yo [Inserte su nombre] _____ deseo disputar el número de semanas de trabajo calculadas para mí como parte del acuerdo en el caso de *Oswaldo Vargas v. Blue Line Foodservice Distribution, Inc., Corte Superior del Condado de Orange, Caso No. 30-2023-01328202-CU-OE-CXC*. Con base en la evidencia presentada con este formulario, el número correcto de semanas de trabajo es _____.

Llegué al número anterior de semanas de trabajo confiando en la siguiente información y / o documentos (por favor adjunte cualquier registro que respalde su argumento de que trabajó más semanas de trabajo que las incluidas en el Aviso):

Tenga en cuenta que la Corte ha aprobado el siguiente método para resolver disputas de semana laboral:

Si usted presenta este formulario disputando la exactitud de los registros del demandado utilizados para calcular las semanas de trabajo cubiertas, y el abogado de las Partes no puede resolver la disputa de manera informal, el asunto será remitido al Administrador del Acuerdo. El Administrador del Acuerdo revisará los registros del demandado y cualquier información o documentos presentados por usted. Las partes deben presentar ante la Corte todas las disputas presentadas por miembros de la clase, las pruebas presentadas y la resolución de esas disputas. La Corte tendrá el derecho de revisar cualquier decisión tomada por el administrador del acuerdo con respecto a

una disputa de reclamación. Debe presentar información o documentos que respalden su posición al Administrador del Acuerdo antes de la expiración del plazo de respuesta>>. La información o los documentos presentados después del vencimiento del Plazo de Respuesta no serán considerados por el Administrador del Acuerdo, a menos que las Partes acuerden lo contrario.

Declaro bajo pena de perjurio bajo las leyes del Estado de California que lo anterior es verdadero y correcto.

Firmado: _____

Fecha: _____

Nombre en letra de imprenta: _____

Últimos cuatro dígitos del número de Seguro Social _____