

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

This Settlement Agreement and General Release is a compromise between Michael Wolf Vineyard Services, Inc. (“Defendant”) and Jose Luis Tapia (“Plaintiff”) (collectively, the “Parties”) regarding any and all claims arising out of or relating to Plaintiff’s employment relationship with Defendant.

The Parties acknowledge there was no coercion, duress, or undue pressure to sign this Agreement, and no one threatened or forced the Parties into signing this Agreement. The Parties understand that they are under no obligation to sign this Agreement at the time the Agreement is presented nor under any obligation to sign this Agreement at a later date. The Parties represent and acknowledge that they are voluntarily entering into this Agreement with the full knowledge of the rights that they may be waiving.

RECITALS

1.0 Plaintiff filed a class action and PAGA lawsuit against Defendant in Napa County Superior County, entitled *Jose Luis Tapia v. Michael Wolf Vineyard Services, Inc.*, Case No. 23CV46960 (the “Lawsuit”). The Lawsuit alleges that Defendant is liable to Plaintiff and all other non-exempt employees for statutory and civil penalties for (1) Failure to Pay All Wages; (2) Failure to Provide Meal Periods or Compensation in Lieu Thereof; (3) Failure to Permit Rest Periods or Provide Compensation in Lieu Thereof; (4) Knowing and Intentional Failure to Provide Accurate Itemized Wage Statements; (5) Waiting Time Penalties; (6) Failure to Reimburse Business Expenses; (7) Violations of the Unfair Competition Law; and (8) Violation of the Private Attorneys General Act of 2004.

1.1 Defendant filed a cross-complaint in this matter (the “Cross-Complaint”) alleging that Plaintiff was the head supervisor of Defendant’s non-exempt employees that he seeks to represent, and that Plaintiff was liable to Defendant for under Labor Code sections 2854, 2856, 2859, 2865, and for Indemnification for any damages from any violations Plaintiff alleges in the Lawsuit.

1.1 Defendant continues to deny all of Plaintiff’s claims and contends that it is not liable to any employee in any amount, on any theory. Plaintiff denies that he is liable to Defendant in any amount on any theory.

1.2 The Parties desire to avoid the time and expense of litigation and wish to resolve any and all issues arising out of or related to Plaintiff’s employment with Defendant and all differences between them.

THEREFORE, in consideration of the mutual promises, assurances, and covenants set forth in this Agreement, the Parties agree as follows:

AGREEMENT

2.0 Within ten (10) days of the end of the Revocation Period of this Agreement, Plaintiff shall file all necessary paperwork to dismiss the Lawsuit in its entirety. Plaintiff's individual Labor Code claims and his individual PAGA claims shall be dismissed with prejudice. Plaintiff's class claims and Plaintiff's non-individual PAGA claim shall be dismissed without prejudice. Plaintiff shall comply with Rule of Court 3.770 and obtain court approval for dismissal of the class claims. Plaintiff shall comply Labor Code § 2699(l), including obtaining court approval of Plaintiff's individual PAGA settlement.

2.1 Within ten (10) days from the date that (1) this Agreement is executed, (2) Plaintiff and his counsel have provided their completed W-9 forms, and (3) the Revocation Period has ended without Plaintiff's revocation of the agreement; and (3) Defendant is served with an order dismissing the Lawsuit; Defendant shall pay a total of **\$25,000.00 (Twenty-Five Thousand Dollars and No Cents)** (the "Gross Settlement Amount") and dismiss the Cross-Complaint with prejudice.

2.2 The Gross Settlement Amount will be allocated as follows.

(a) **\$24,900.00 (Twenty Four Thousand Nine Hundred Dollars and No Cents)** shall be designated as penalties, interest, reimbursements, attorneys' fees, and costs, subject to the issuance of an IRS Form 1099.

(b) **\$100.00 (One Hundred Dollars and No Cents)** will be designated as the PAGA amount for resolution of Plaintiff's individual PAGA claims. In accordance with Labor Code § 2699(i), seventy-five percent of the PAGA amount shall be paid to the Labor and Workforce Development Agency ("LWDA") by Plaintiff within ten (10) days of receiving payment from Defendant.

(c) Defendant shall issue a check in the amount of \$12,860.41 payable to Jose Luis Tapia Lopez and mailed to 2561 Hawthorne Court, Napa, California 94558, subject to the issuance of an IRS Form 1099.

(d) Defendant shall issue a check in the amount of \$5,199.27 payable to "Jose Garay, APLC" and mailed to "14 Joliet Drive, Coto de Caza, California 92679", for Plaintiff's counsel's, Jose R. Garay, attorneys' fees and costs, subject to the issuance of an IRS Form 1099.

(e) Defendant shall issue a check in the amount of \$6,940.32 payable to "Torus

LLP” and mailed to “1440 North Harbor Boulevard, Suite 900, Fullerton, California 92835”, for Plaintiff’s counsel’s, Daniel J. Hyun, attorneys’ fees and costs, subject to the issuance of an IRS Form 1099.

2.1 Plaintiff acknowledges that Plaintiff is responsible for properly reporting for tax purposes the amounts Plaintiff receives, that Plaintiff is responsible for any and all tax liability that may accrue to Plaintiff resulting from Plaintiff’s receipt of any portion of Defendant’s payment. Defendant shall issue IRS Form 1099s to Plaintiff and his counsel for non-wage payments. Plaintiff agrees to hold Defendant harmless and indemnify Defendant for any liability Defendant may incur arising out of Plaintiff’s failure to pay any taxes assessed against Plaintiff as a result of Plaintiff’s receipt of any portion of the 1099 based payment.

2.2 **RELEASED CLAIMS:** In consideration of the payment referenced above, the Parties mutually release and settle any and all claims they may have against each other, including any claims that the Parties may have against each other’s predecessors and successors in interest, subsidiaries, affiliated entities, heirs and assigns, past, present, or future officers, directors, partners, shareholders, agents, and legal representatives, and any other person or entity arising out of, or in any way related to, Plaintiff’s employment with Defendant, whether based in tort, contract, public policy, statute, regulation, common law, or any other theory of recovery, either federal, state or local including, but not limited to: the Fair Employment and Housing Act; Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act; the Equal Pay Act; the Fair Labor Standards Act; the Consolidated Omnibus Budget Reconciliation Act; the Family and Medical Leave Act; the Plaintiff Retirement Income Security Act; the California Labor Code; misclassification claims, all provisions of the California Government Code; the Orders of the California Industrial Welfare Commission regulating wages, hours, and working conditions; any other foreign, federal, state or local laws, common law or case law prohibiting employment discrimination or otherwise regulating employment; any claims for discrimination, failure to prevent discrimination, retaliation, failure to prevent retaliation, harassment, failure to prevent harassment, assault, battery, misrepresentation, fraud, deceit, invasion of privacy, breach of contract, breach of quasi-contract, breach of implied contract, accounting, wrongful or constructive discharge, breach of the covenant of good faith and fair dealing, libel, defamation, slander, negligent or intentional infliction of emotional distress, violation of public policy, negligent supervision, negligent retention, negligence, or interference with business opportunity or with contract; and any claim or claims for vacation pay, severance pay, wages, expenses, or the exercise thereof, any bonus or similar payment, sick leave, holiday pay, insurance including, without limitation, health, medical, life, or disability insurance, and reimbursement of health or medical costs; provided, however, that this release shall not affect any rights the Parties have been granted pursuant to this Agreement or any vested pension rights or any workers' compensation claims.

a. Release of Age Claims. The Released Claims above include a waiver of rights and claims which Plaintiff may have arising under the Age Discrimination in Employment Act of 1967

(Title 29, United States Code, Sections 621, et seq.) (“ADEA”). Plaintiff is advised to consult with an attorney about Plaintiff’s waiver of rights and claims under the ADEA. Plaintiff understands that by signing this Agreement, Plaintiff waives Plaintiff’s rights or claims under the ADEA. Plaintiff further understands that Plaintiff is not waiving rights or claims under the ADEA that may arise after the Effective Date of this fully executed Agreement.

In accordance with the Older Workers Benefit Protection Act of 1990 (“OWBPA”), Plaintiff acknowledges, and agrees to, the following terms:

- i. Plaintiff has carefully read and fully understands all of the provisions of this Agreement and has entered into this Agreement knowingly and voluntarily.
- ii. Plaintiff is advised to consult with an independent attorney before signing this Agreement.
- iii. Plaintiff has a period of up to twenty-one (21) days from receipt of this Agreement to consider whether Plaintiff wishes to execute this Agreement; and
- iv. Plaintiff has a period of seven (7) days, commencing with the day after the date of Plaintiff’s signature on this Agreement, to revoke Plaintiff’s signature and to cancel Plaintiff’s agreement to waive Plaintiff’s rights (“Revocation Period”). To revoke, Plaintiff must notify Defendant in writing of the revocation within the seven (7) day period, addressed to Rosasco Law Group, 6540 Lonetree Blvd, Ste 100, Rocklin, CA 95765. This Agreement shall not be effective and no payments shall be made hereunder unless and until the Revocation Period has expired without revocation.

2.3 The Parties expressly waive and release any right to recover any type of personal relief from each other, including monetary damages or reinstatement, in any administrative action or proceeding, whether state or federal, and whether brought by the Parties or on the Parties’ behalf by an administrative agency, related in any way to the matters released herein.

2.4 The scope of persons or entities that the Parties are releasing from claims is to be interpreted as broadly as possible, and includes any claims against the Parties and all of their present and former owners, officers, directors, shareholders, employees, heirs and assigns, agents, affiliated entities, insurers and/or subsidiaries, and any other persons or entities who are or were connected in any way to Plaintiff’s employment with Defendant including, but not limited to, its independent contractors, customers, vendors, consultants, licensees, and attorneys, and all other legal entities through which it conducts business, and any persons related to or acting on behalf of them.

2.5 Plaintiff acknowledges and agrees that Plaintiff has received all wages, salary, commissions, bonuses, accrued vacation benefits, and all other compensation due Plaintiff.

2.6 Nothing in this Agreement shall be interpreted or construed as an admission of liability by Plaintiff or Defendant.

2.7 The Parties agree that they will bear their own costs and attorneys' fees in connection with the Lawsuit and Cross-Complaint.

3.0 **UNKNOWN CLAIMS:** Plaintiff and Defendant agree that this release includes any and all claims at law or in equity or in arbitration which may exist, but may not have been discovered, and expressly waives all rights under Section 1542 of the California Civil Code which provides that:

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

Plaintiff and Defendant understand and acknowledge that the significance and consequence of this waiver of Civil Code § 1542 is that the Parties will not be able to make any claim for alleged damages that exist as of the date of the Parties' signature on this Agreement.

4.0 **CONFIDENTIALITY:** Defendant and Plaintiff agree and acknowledge that the amount of the settlement payment shall be confidential and that Defendant and Plaintiff shall not disclose any information about the amount of the settlement, or the negotiations leading up to this Agreement, to anyone except for legal counsel or persons to whom such disclosures are necessary for legitimate tax compliance purposes and unless required by subpoena, court order, or other force of law. Notwithstanding the above, Plaintiff may make limited disclosures of the settlement amount to the Court and/or LWDA to extent necessary to obtain (1) approval of the dismissal of the class and non-individual PAGA claims, and (2) for approval of the individual PAGA settlement.

The Parties agree and understand that breach of this "confidentiality" covenant shall result in immediate and irreparable harm to the other party for which there is no adequate remedy at law. The Parties further agree that it would be impractical and extremely difficult to affix the actual damages caused by an unauthorized disclosure. Therefore, pursuant to Civil Code § 1671, the Parties agree that, in addition to reimbursing the non-disclosing party for all costs, including attorney fees, if any, incurred in establishing that such a disclosure was made, the disclosing party shall pay the non-disclosing party the sum of \$500.00 (Five hundred dollars) as liquidated damages for each and every breach of this provision, up to a maximum of \$2,500.00 (Two thousand five hundred dollars), which represents a fair estimate of the reasonable compensation for such a breach.

The party seeking to enforce this provision of the settlement agreement can file for an

injunction without the posting of a bond. If litigation is brought to enforce this confidentiality provision, the prevailing party may be awarded all costs, including reasonable attorney fees, if any, as determined by the court, incurred in establishing that such a disclosure was made.

4.1 **NON-COOPERATION.** Plaintiff further represents and warrants that Plaintiff will not engage in any conduct or take any action whatsoever to cause, assist, or influence or which reasonably could be anticipated to cause, assist, or influence, any person or entity including, but not limited to, any past, present, or prospective employee of, or applicant for, employment with Defendant to consider, initiate, or prosecute litigation, assert any other kind of claim, or take any other kind of adverse action against Defendant, and Plaintiff further represents and warrants that Plaintiff will not voluntarily assist any person or entity undertaking any such actions against Defendant, unless compelled by subpoena or court order.

4.2 **PROTECTED RIGHTS.** Plaintiff understands that nothing contained in this Agreement limits Plaintiff's ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission, the California Department of Fair Employment and Housing (DFEH), or any other federal, state or local governmental agency or commission (Government Agencies). Plaintiff further understands that this Agreement does not limit Plaintiff's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company. This Agreement does not limit Plaintiff's right to receive an award for information provided to any Government Agencies. Plaintiff further understands that this Agreement does not limit Plaintiff's right (i) to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment by Defendant or its agents or employees when required or requested by a court order, subpoena, or written request from an administrative agency or the legislature, or (ii) to otherwise disclose factual information related to any claims of sexual assault, sexual harassment, sex-based discrimination, retaliation for reporting sex-based harassment or discrimination, or failure to prevent such harassment or discrimination, that may be contained in the Action.

4.3 **GOVERNMENT AGENCIES.** Nothing in this Agreement shall be construed to prohibit Plaintiff from filing a charge with or participating in any investigation or proceeding conducted by the EEOC or a comparable state or local agency. Notwithstanding the foregoing, Plaintiff expressly waives and releases any right to recover any type of personal relief from Defendant, including monetary damages or reinstatement, in any administrative action or proceeding, whether state or federal, and whether brought by Plaintiff or on Plaintiff's behalf by an administrative agency, related in any way to the matters released herein.

4.4 **NLRB RIGHTS.** Nothing in this agreement is intended or will be applied, to prohibit current employees from exercising their rights protected under federal labor law, including concerted discussion of wages, hours or other terms and conditions of employment.

4.5 **AGREEMENT NOT TO SUE.** In consideration for the terms above, and for payment of the above-mentioned sums, the Parties agree not to file nor cause to be filed any

lawsuit against each other, nor serve as a class representative in a class action or representative in a PAGA complaint, for claims arising from Plaintiff's employment with Defendant.

5.0 **SUCCESSORS:** This Agreement shall inure to the benefit of each party and that party's predecessors, successors, subsidiaries, affiliates, representatives, heirs, assigns, agents, officers, directors, employees, and personal and legal representatives, past, present, or future.

6.0 **ATTORNEY'S FEES AND COSTS:** In the event that legal proceedings are initiated for the purpose of enforcing or interpreting any term of this Agreement, the prevailing party in any such proceeding shall be entitled to an award of reasonable attorney's fees and costs incurred in bringing or defending such action.

7.0 **ENTIRE AGREEMENT:** This Agreement is the complete and entire agreement between the Parties as of the effective date of the Agreement and is intended to be fully integrated. Any and all prior agreements or understandings, whether written or oral, that are not set forth in this Agreement shall have no force or effect. Each party acknowledges and represents that in executing this Agreement, each has not relied upon any inducements, promises, or representations made by the other party or any person representing any other party which are not specifically set forth in this Agreement. This Agreement may not be modified, except by a written agreement signed by all Parties. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.0 **GOVERNING LAW:** This Agreement shall be governed for all purposes by the laws of the State of California. Any proceeding to enforce or interpret this Agreement shall take place in County, California. Pursuant to Evidence Code § 1123(b), this Settlement Agreement is enforceable, binding, and admissible in a court of law. Further, pursuant to California Code of Civil Procedure § 664.6, the Parties upon motion, may enter judgment pursuant to the terms of the settlement.

9.0 **SEVERABILITY:** Should any provision or portion of this of this Agreement be declared or be determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, then the legality, validity, or enforceability of the remaining parts, terms, or provisions or portions of provisions shall not be affected, and the illegal, unenforceable, or invalid part, term, or provision shall be severable and deemed not to be a part of this Agreement.

10.0 **EFFECT OF WAIVER OF BREACH:** No waiver of any breach of any term or provision of this Agreement shall be construed to be, or shall be, a waiver of any other breach of this Agreement. No waiver shall be binding unless it is in writing and signed by the party waiving the breach.

11.0 **FULL AND INDEPENDENT KNOWLEDGE:** The Parties represent that they have thoroughly read this Agreement, that they have been advised to consult an attorney regarding this Agreement, that they have been provided with a reasonable time period of not less than five (5) business days in which to do so, that they fully understand all of the provisions of this Agreement, that they agree to its terms, and that they are knowingly and voluntarily entering into this Agreement.

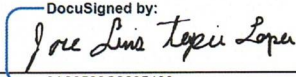
12.0 **EFFECTUATION** The Parties shall execute any and all other documents and do all other things which may be reasonably necessary to carry out the terms of this Agreement.

13.0 **MUTUAL DRAFTING** Each party to this Agreement was represented by counsel and had an opportunity to participate in the drafting of this Agreement to the extent they desire, and, therefore, this Agreement shall be construed according to its plain meaning and not strictly construed for or against either party.

14.0 **MUTUAL COOPERATION** The Parties agree to act in good faith and to cooperate to enforce the terms of this Agreement. Should the Court require any amendments or conditions to approving this Agreement, the Parties shall cooperate to resolve any and all issues related to the enforcement of this Agreement including to ensure dismissal of the Parties' claims and receipt of payment.

SIGNATURES

Dated: 11/21/2023 _____

By:  _____
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Jose Luis Tapia

Dated: _____

By: _____
Michael Wolf Vineyard Services, Inc.
By: _____
Its: _____

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SIGNATURES

Dated: _____

By: _____
Jose Luis Tapia

Dated: 11/20/2023

By: _____
Michael Wolf Vineyard Services, Inc.
By: Domenick Bianco
Its: Owner