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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

DAISY NOHEMI MARTINEZ, an individual
and on behalf of all others similarly situated,

Plaintiff,

v.

TACOS POR FAVOR, a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO.: 23STCV03493

[Assigned for all purposes to Honorable
David S. Cunningham III in Dept. 11]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: February 16, 2023

Trial Date: None Set

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
between plaintiff Daisy Nohemi Martinez (“Plaintiff”) and defendant Tacos Por Favor

1 (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or
2 individually as “Party.”

3 **1. DEFINITIONS**

4 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
5 Defendant, captioned *Daisy Nohemi Martinez v. Tacos Por Favor*, Case No. 23STCV03493,
6 initiated on February 16, 2023, and pending in Superior Court of the State of California, County
7 of Los Angeles.

8 1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties
9 have agreed to appoint to administer the Settlement.

10 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
11 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
12 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
13 Preliminary Approval of the Settlement.

14 1.4. “Aggrieved Employee” means a person employed by Defendant in California and
15 classified as a non-exempt, hourly-paid employee who worked for Defendant during the PAGA
16 Period.

17 1.5. “Class” means all persons employed by Defendant in California and classified as a non-
18 exempt, hourly-paid employee who worked for Defendant during the Class Period.

19 1.6. “Class Counsel” means David D. Bibiyan, Jeffrey D. Klein, and Vedang J. Patel of
20 Bibiyan Law Group, P.C.

21 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
22 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
23 expenses, respectively, incurred to prosecute the Action.

24 1.8. “Class Data” means Class Member identifying information in Defendant’s custody,
25 possession, or control, including the Class Member’s (1) name; (2) last known address(es); (3)
26 last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of
27 employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

28 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either

1 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
2 Class Member who qualifies as an Aggrieved Employee).

3 1.10. "Class Member Address Search" means the Administrator's investigation and search for
4 current Class Member mailing addresses using all reasonably available sources, methods and
5 means including, but not limited to, the National Change of Address database, skip traces, and
6 direct contact by the Administrator with Class Members.

7 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
8 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
9 Class Members in English and Spanish in the form, without material variation, attached as Exhibit
10 A and incorporated by reference into this Agreement.

11 1.12. "Class Period" means the period from February 16, 2019 through the date of
12 preliminary approval of the settlement.

13 1.13. "Class Representative" means the named Plaintiff in the operative complaint in the Action
14 seeking Court approval to serve as a Class Representative.

15 1.14. "Class Representative Service Payment" means the payment to the Class Representative
16 for initiating the Action and providing services in support of the Action.

17 1.15. "Court" means the Superior Court of California, County of Los Angeles.

18 1.16. "Defendant" means named defendant Tacos Por Favor.

19 1.17. "Defense Counsel" means Laurie M. Cortez of Emilio Law Group APC.

20 1.18. "Effective Date" means the later of: (a) the Court enters a Judgment on its Order Granting
21 Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the
22 latest of the following occurrences: (a) if no Participating Class Member objects to the
23 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
24 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
25 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
26 affirms the Judgment and issues a remittitur.

27 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

28 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval

1 of the Settlement.

2 1.21. "Final Judgment" means the Judgment entered by the Court based upon the Final
3 Approval.

4 1.22. "Gross Settlement Amount" means \$200,000.00 (Two Hundred Thousand Dollars and
5 Zero Cents) which is the total amount Defendant agrees to pay under the Settlement, except as
6 provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage
7 Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay
8 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class
9 Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and
10 Administrator's Expenses.

11 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the
12 Net Settlement Amount calculated according to the number of Workweeks worked during the
13 Class Period.

14 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of
15 the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA
16 Period.

17 1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

18 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency
19 entitled, under Labor Code section 2699, subd. (i).

20 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
21 under Labor Code section 2699, subd. (i).

22 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following
23 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
24 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
25 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
26 paid to Participating Class Members as Individual Class Payments.

27 1.29. "Non-Participating Class Member" means any Class Member who opts out of the
28 Settlement by sending the Administrator a valid and timely Request for Exclusion.

1 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked
2 for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as
3 applicable), and termination dates (as applicable).

4 1.31. "PAGA Period" means the period from August 29, 2022 through the end of the Class
5 Period.

6 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

7 1.33. "PAGA Notice" means plaintiff's August 29, 2023 letter to defendant and the LWDA,
8 providing notice pursuant to Labor Code section 2699.3 subd. (a).

9 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the
10 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and the 75%
11 to the LWDA (\$7,500.00) in settlement of PAGA claims.

12 1.35. "Participating Class Member" means a Class Member who does not submit a valid and
13 timely Request for Exclusion from the Settlement.

14 1.36. "Plaintiff" means Daisy Nohemi Martinez the named plaintiff in the Action.

15 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the
16 Settlement.

17 1.38. "Preliminary Approval Order" means the proposed Order granting Preliminary Approval
18 and Approval of PAGA Settlement.

19 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2
20 below.

21 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4
22 below.

23 1.41. "Released Parties" means: Defendant, and each of their former, present and future owners,
24 parents, and subsidiaries, and all of their current, former, and future officers, directors, members,
25 managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors,
26 successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

27 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be
28 excluded from the Class Settlement signed by the Class Member.

1 1.43. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to
2 Class Members and Aggrieved Employees, and shall be the last date on which Class Members
3 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
4 Settlement. Class Members to whom Notice Packets are resent after having been returned
5 undeliverable to the Administrator shall have an additional 15 days beyond the Response
6 Deadline has expired.

7 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the
8 Judgment.

9 1.45. "Workweek" means any week during which a Class Member worked for Defendant, for
10 at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and
11 termination dates (as applicable).

12 2. RECITALS

13 2.1. On February 16, 2023, Plaintiff commenced this action by filing a complaint against
14 Defendant for: failure to pay overtime and minimum wages; failure to provide meal breaks, rest
15 breaks, or compensation in lieu thereof; waiting time penalties; wage statement violations; failure
16 to timely pay wages; violation of Labor Code § 227.3; and unfair competition ("Action").

17 2.2. On August 29, 2024, Plaintiff filed with the LWDA and served on Defendant a notice
18 under Labor Code section 2699.3. stating she intended to serve as a proxy of the LWDA to
19 recover civil penalties on behalf of other non-exempt, hourly-paid employees for various
20 violations of the Labor Code ("PAGA Notice").

21 2.3. On November 3, 2023, Plaintiff filed a separate PAGA complaint for civil penalties
22 under PAGA.

23 2.4. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

24 2.5. Prior to mediation Plaintiff obtained, through informal discovery: (a) time and payroll
25 records for 100% of Class Members during the Class Period; (b) a class list of hire dates,
26 termination dates, and rates of pay for all Class Members; and (c) all documents pertaining to
27 Plaintiff available to Defendant.

28 2.6. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in

1 *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker*
2 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

3 2.7. On April 2, 2024, the Parties participated in an all-day mediation presided over by Nikki
4 Tolt, Esquire. The mediation was unsuccessful. However, the Parties continued to negotiate in
5 the months after through the assistance of the mediator, the Parties agreed to globally resolve all
6 class and PAGA claims in the Action.

7 2.8. The Court has not granted class certification.

8 2.9. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any
9 other pending matter or action asserting claims that will be extinguished or affected by the
10 Settlement.

11 2.10. As part and parcel to the Settlement, the Parties hereby agree to file a First Amended
12 Complaint in the Class Action, and thereafter dismiss the PAGA Action, effectively
13 consolidating the Class Action and PAGA Action. The First Amended Complaint shall be the
14 “Operative Complaint.”

15 3. MONETARY TERMS

16 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below,
17 Defendant promise to pay \$200,000.00 as the Gross Settlement Amount, and to separately pay
18 any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.
19 Defendant have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to
20 the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire
21 Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved
22 Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount
23 will revert to Defendant.

24 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
25 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
26 in the Final Approval:

27 3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than
28 \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA

1 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendant will
2 not oppose Plaintiff's request for a Class Representative Service Payment that does not
3 exceed this amount. As part of the motion for Class Counsel Fees Payment and Class
4 Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
5 Representative Service Payments prior to the Final Approval Hearing. If the Court
6 approves a Class Representative Service Payment less than the amount requested, the
7 Administrator will retain the remainder in the Net Settlement Amount. The
8 Administrator will pay the Class Representative Service Payment using IRS Form 1099.
9 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
10 Representative Service Payment.

11 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the
12 Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this
13 Agreement, is currently estimated to be \$70,000.00 and a Class Counsel Litigation
14 Expenses Payment of not more than \$25,000.00. Defendant will not oppose requests for
15 these payments provided that do not exceed these amounts. Plaintiff and/or Class
16 Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class
17 Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves
18 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less
19 than the amounts requested, the Administrator will allocate the remainder to the Net
20 Settlement Amount. Released Parties shall have no liability to Class Counsel or any
21 other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee
22 Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will
23 pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one
24 or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes
25 owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
26 Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute
27 or controversy regarding any division or sharing of any of these Payments. There will
28 be no additional charge of any kind to either the Settlement Class Members or request

1 for additional consideration from Defendant for such work unless, Defendant materially
2 breach this Agreement, including any term regarding funding, and further efforts are
3 necessary from Class Counsel to remedy said breach, including, without limitation,
4 moving the Court to enforce the Agreement. Should the Court approve attorneys' fees
5 and/or litigation costs and expenses in amounts that are less than the amounts provided
6 for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

7 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
8 \$6,250.00 except for a showing of good cause and as approved by the Court. To the
9 extent the Administration Expenses are less or the Court approves payment less than
10 \$6,250.00 the Administrator will retain the remainder in the Net Settlement Amount.

11 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
12 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked
13 by all Participating Class Members during the Class Period and (b) multiplying the result
14 by each Participating Class Member's Workweeks.

15 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
16 Class Member's Individual Class Payment will be allocated to settlement of
17 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
18 withholding and will be reported on an IRS W-2 Form. The 80% of each
19 Participating Class Member's Individual Class Payment will be allocated to
20 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
21 Non-Wage Portions are not subject to wage withholdings and will be reported
22 on IRS 1099 Forms. Participating Class Members assume full responsibility
23 and liability for any employee taxes owed on their Individual Class Payment.

24 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
25 Class Payments. Non-Participating Class Members will not receive any
26 Individual Class Payments. The Administrator will retain amounts equal to
27 their Individual Class Payments in the Net Settlement Amount for distribution
28 to Participating Class Members on a pro rata basis.

1 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
2 \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00)
3 allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual
4 PAGA Payments.

5 3.2.5.1. The Administrator will calculate each Individual PAGA
6 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
7 of PAGA Penalties \$10,000.00 by the total number of PAGA Period Pay
8 Periods worked by all Aggrieved Employees during the PAGA Period and (b)
9 multiplying the result by each Aggrieved Employee's PAGA Period Pay
10 Periods. Aggrieved Employees assume full responsibility and liability for any
11 taxes owed on their Individual PAGA Payment.

12 3.2.5.2. If the Court approves PAGA Penalties of less than the
13 amount requested, the Administrator will allocate the remainder to the Net
14 Settlement Amount. The Administrator will report the Individual PAGA
15 Payments on IRS 1099 Forms.

16 4. SETTLEMENT FUNDING AND PAYMENTS

17 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
18 to date, Defendant estimates there are 79 Class Members who collectively worked a total of 4,255
19 payperiods, and 52 of Aggrieved Employees who worked a total of 1,971 PAGA Pay Periods.

20 4.2. Class Data. Not later than 7 days after the Court grants Preliminary Approval of the
21 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the
22 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
23 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
24 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
25 employees who need access to the Class Data to effect and perform under this Agreement.
26 Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class
27 Data omitted class member identifying information and to provide corrected or updated Class
28 Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant

1 must send the Class Data to the Administrator, the Parties and their counsel will expeditiously
2 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or
3 omitted Class Data.

4 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
5 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by
6 transmitting the funds to the Administrator no later than 7 days after the Effective Date.

7 4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant fund the
8 Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,
9 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses
10 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and
11 the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment,
12 the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment
13 shall not precede disbursement of Individual Class Payments, and the Individual PAGA
14 Payments.

15 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
16 Individual PAGA Payments and send them to the Class Members via First Class U.S.
17 Mail, postage prepaid. The face of each check shall prominently state the date (not less
18 than 180 days after the date of mailing) when the check will be voided. The
19 Administrator will cancel all checks not cashed by the void date. The Administrator
20 will send checks for Individual Settlement Payments to all Participating Class Members
21 (including those for whom Class Notice was returned undelivered). The Administrator
22 will send checks for Individual PAGA Payments to all Aggrieved Employees including
23 Non-Participating Class Members who qualify as Aggrieved Employees (including
24 those for whom Class Notice was returned undelivered). The Administrator may send
25 Participating Class Members a single check combining the Individual Class Payment
26 and the Individual PAGA Payment. Before mailing any checks, the Settlement
27 Administrator must update the recipients' mailing addresses using the National Change
28 of Address Database.

1 4.4.2. The Administrator must conduct a Class Member Address Search for all other
2 Class Members whose checks are returned undelivered without USPS forwarding
3 address. Within 7 days of receiving a returned check the Administrator must re-mail
4 checks to the USPS forwarding address provided or to an address ascertained through
5 the Class Member Address Search. The Administrator need not take further steps to
6 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
7 The Administrator shall promptly send a replacement check to any Class Member whose
8 original check was lost or misplaced, requested by the Class Member prior to the void
9 date.

10 4.4.3. For any Class Member whose Individual Class Payment check or Individual
11 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
12 shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid
13 at Work, for use in Los Angeles County.

14 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
15 not obligate Defendant to confer any additional benefits or make any additional
16 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
17 specified in this Agreement.

18 **5. RELEASE OF CLAIMS**

19 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
20 and on the date when Defendant fully fund the entire Gross Settlement Amount and fund all
21 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff,
22 Class Members, and Class Counsel will release claims against all Released Parties as follows:

23 5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses,
24 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
25 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
26 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
27 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
28 have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA

1 Notice. (“Plaintiff’s Release.”) Plaintiff’s Release does not extend to any claims or actions to
2 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
3 benefits, social security benefits, workers’ compensation benefits that arose at any time, or based
4 on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts
5 or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to
6 be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all
7 respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

8 5.1.1. Plaintiff’s Waiver of Rights Under California Civil Code Section 1542. For
9 purposes of Plaintiff’s Release only, Plaintiff expressly waives and relinquish the
10 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
11 which reads:

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

16 5.2. Release by Participating Class Members: For the duration of the Class Period, all
17 Participating Class Members, on behalf of themselves and their respective former and present
18 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
19 Parties from all claims that were alleged, or reasonably could have been alleged, based on the
20 facts stated in the Operative Complaint including: (1) all claims for failure to pay overtime wages;
21 (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods,
22 or compensation in lieu thereof; (4) all claims for failure to provide compliant rest periods, or
23 compensation in lieu thereof (5) all claims for the failure to pay wages due upon termination or
24 resignation; (6) all claims for non-compliant wage statements; (7) failure to timely pay wages; (8)
25 failure to pay for vested vacation; and (8) all claims asserted through California Business &
26 Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the
27 Operative Complaint.

28 5.3. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not

1 release any other claims, including claims for vested benefits, wrongful termination, violation of
2 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
3 workers' compensation, or claims based on facts occurring outside the Class Period.

4 5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved
5 Employees are deemed to release, on behalf of themselves and their respective former and present
6 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
7 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
8 alleged based on the facts stated in the Operative Complaint and the PAGA Notice.

9 **6. MOTION FOR PRELIMINARY APPROVAL**

10 The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion
11 for Preliminary Approval") that complies with the Court's current checklist for Preliminary
12 Approvals.

13 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 7 days of full
14 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
15 declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
16 potential conflicts of interest with the Administrator and Cy Pres Recipient.

17 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and to deliver to Defense Counsel all
18 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
19 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
20 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor
21 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
22 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from
23 the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting
24 to its willingness to serve; competency; operative procedures for protecting the security of Class
25 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
26 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
27 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
28 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve

1 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
2 Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to
3 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
4 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
5 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
6 subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class
7 Members and the Administrator.

8 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
9 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
10 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
11 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
12 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
13 Administrator.

14 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
15 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
16 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
17 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
18 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
19 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
20 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
21 Court's concerns.

22 7. SETTLEMENT ADMINISTRATION

23 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement
24 Administrators to serve as the Administrator and verified that, as a condition of appointment,
25 Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a
26 fiduciary, all duties specified in this Agreement in exchange for payment of Administration
27 Expenses. The Parties and their Counsel represent that they have no interest or relationship,
28 financial or otherwise, with the Administrator other than a professional relationship arising out

1 of prior experiences administering settlements.

2 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
3 Identification Number for purposes of calculating payroll tax withholdings and providing reports
4 state and federal tax authorities.

5 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
6 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
7 468B-1.

8 7.4. Notice to Class Members

9 7.4.1. No later than three (3) business days after receipt of the Class Data, the
10 Administrator shall notify Class Counsel that the list has been received and state the
11 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
12 Class Data.

13 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
14 days after receiving the Class Data, the Administrator will send to all Class Members
15 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
16 the Class Notice with Spanish translation, substantially in the form attached to this
17 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
18 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
19 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
20 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
21 update Class Member addresses using the National Change of Address database.

22 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
23 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
24 using any forwarding address provided by the USPS. If the USPS does not provide a
25 forwarding address, the Administrator shall conduct a Class Member Address Search,
26 and re-mail the Class Notice to the most current address obtained. The Administrator
27 has no obligation to make further attempts to locate or send Class Notice to Class
28 Members whose Class Notice is returned by the USPS a second time.

1 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
2 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
3 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
4 notice is re-mailed. The Administrator will inform the Class Member of the extended
5 deadline with the re-mailed Class Notice.

6 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
7 discovers any persons who believe they should have been included in the Class Data
8 and should have received Class Notice, the Parties will expeditiously meet and confer,
9 and in good faith, in an effort to agree on whether to include them as Class Members.
10 If the Parties agree, such persons will be Class Members entitled to the same rights as
11 other Class Members, and the Administrator will send, via email or overnight delivery,
12 a Class Notice requiring them to exercise options under this Agreement not later than
13 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which
14 ever are later.

15 7.5. Requests for Exclusion (Opt-Outs).

16 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
17 must send the Administrator, by mail, a signed written Request for Exclusion not later
18 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
19 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
20 from a Class Member or his/her representative that reasonably communicates the Class
21 Member's election to be excluded from the Settlement and includes the Class Member's
22 name, address and email address or telephone number. To be valid, a Request for
23 Exclusion must be timely postmarked by the Response Deadline.

24 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
25 fails to contain all the information specified in the Class Notice. The Administrator
26 shall accept any Request for Exclusion as valid if the Administrator can reasonably
27 ascertain the identity of the person as a Class Member and the Class Member's desire
28 to be excluded. The Administrator's determination shall be final and not appealable or

1 otherwise susceptible to challenge. If the Administrator has reason to question the
2 authenticity of a Request for Exclusion, the Administrator may demand additional proof
3 of the Class Member's identity. The Administrator's determination of authenticity shall
4 be final and not appealable or otherwise susceptible to challenge.

5 7.5.3. Every Class Member who does not submit a timely and valid Request for
6 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
7 to all benefits and bound by all terms and conditions of the Settlement, including the
8 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
9 regardless whether the Participating Class Member actually receives the Class Notice
10 or objects to the Settlement.

11 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
12 Non-Participating Class Member and shall not receive an Individual Class Payment or
13 have the right to object to the class action components of the Settlement. Because future
14 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
15 Participating Class Members who are Aggrieved Employees are deemed to release the
16 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
17 PAGA Payment.

18 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
19 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
20 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
21 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge
22 the allocation by communicating with the Administrator via mail. The Administrator must
23 encourage the challenging Class Member to submit supporting documentation. In the absence
24 of any contrary documentation, the Administrator is entitled to presume that the Workweeks
25 contained in the Class Notice are correct so long as they are consistent with the Class Data. The
26 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
27 Periods shall be final and not appealable or otherwise susceptible to challenge. The
28 Administrator shall promptly provide copies of all challenges to calculation of Workweeks

1 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
2 the challenges.

3 **7.7. Objections to Settlement**

4 7.7.1. Only Participating Class Members may object to the class action components of
5 the Settlement and/or this Agreement, including contesting the fairness of the
6 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
7 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8 7.7.2. Participating Class Members may send written objections to the Administrator, by
9 mail. In the alternative, Participating Class Members may appear in Court (or hire an
10 attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
11 A Participating Class Member who elects to send a written objection to the
12 Administrator must do so not later than 45 days after the Administrator's mailing of the
13 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
14 mailed).

15 7.7.3. Non-Participating Class Members have no right to object to any of the class action
16 components of the Settlement.

17 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
18 performed or observed by the Administrator contained in this Agreement or otherwise.

19 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
20 and use an internet website to post information of interest to Class Members including
21 the date, time and location for the Final Approval Hearing and copies of the Settlement
22 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
23 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
24 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
25 the Final Approval and the Judgment. The Administrator will also maintain and monitor
26 an email address and a toll-free telephone number to receive Class Member calls and
27 emails.

28 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will

1 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
2 Not later than 5 days after the expiration of the deadline for submitting Requests for
3 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
4 containing (a) the names and other identifying information of Class Members who have
5 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
6 other identifying information of Class Members who have submitted invalid Requests
7 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
8 (whether valid or invalid).

9 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
10 reports to Class Counsel and Defense Counsel that, among other things, tally the number
11 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
12 Exclusion (whether valid or invalid) received, objections received, challenges to
13 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
14 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
15 Weekly Reports must include provide the Administrator’s assessment of the validity of
16 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
17 received.

18 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
19 address and make final decisions consistent with the terms of this Agreement on all
20 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
21 Administrator’s decision shall be final and not appealable or otherwise susceptible to
22 challenge.

23 7.8.5. Administrator’s Declaration. Before the date by which Plaintiff is required to file
24 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
25 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its
26 due diligence and compliance with all of its obligations under this Agreement,
27 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
28 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total

1 number of Requests for Exclusion from Settlement it received (both valid or invalid),
2 the number of written objections and attach the Exclusion List. The Administrator will
3 supplement its declaration as needed or requested by the Parties and/or the Court. Class
4 Counsel is responsible for filing the Administrator's declaration(s) in Court.

5 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
6 disburses all funds in the Gross Settlement Amount, the Administrator will provide
7 Class Counsel and Defense Counsel with a final report detailing its disbursements by
8 employee identification number only of all payments made under this Agreement. At
9 least 7 days before any deadline set by the Court, the Administrator will prepare, and
10 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
11 Court attesting to its disbursement of all payments required under this Agreement. Class
12 Counsel is responsible for filing the Administrator's declaration in Court.

13 8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

14 Based on its records, Defendant estimates that, as of the date of this Settlement
15 Agreement, (1) there are 79 Class Members and 4,255 Total Workweeks during the Class Period
16 and (2) there are 52 Aggrieved Employees who worked 1,971 Pay Periods during the PAGA
17 Period.

18 8.1. Increase in Pay periods. Defendant represent that there are no more than 4,255 pay periods
19 worked during the Class Period. In the event the number of pay periods worked by Class
20 Members during the Class Period increases by more than 5%, or 4,468 Pay periods, then the
21 Gross Settlement Amount shall be increased proportionally by the pay periods in excess of 4,255
22 Workweeks multiplied by the Workweek Value. The Pay period Value shall be calculated by
23 dividing the originally agreed-upon Gross Settlement Amount (\$200,000.00) by 4,255, which
24 amounts to a pay period Value of \$47.00. Thus, for example, should there be 4,468 pay period
25 in the Class Period, then the Gross Settlement Amount shall be increased by \$10,011.00 ((4,468
26 pay periods – 4,255 pay periods) x \$47.00 per payperiod.)

27 9. MOTION FOR FINAL APPROVAL

28 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for

1 final approval of the Settlement that includes a request for approval of the PAGA settlement
2 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
3 Judgment (collectively "Motion for Final Approval"). Plaintiff shall endeavor to provide drafts
4 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
5 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
6 any disagreements concerning the Motion for Final Approval.

7 9.1. Response to Objections. Each Party retains the right to respond to any objection raised
8 by a Participating Class Member, including the right to file responsive documents in Court no
9 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
10 by the Court.

11 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
12 Approval on any material change to the Settlement (including, but not limited to, the scope of
13 release to be granted by Class Members), the Parties will expeditiously work together in good
14 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
15 Approval. The Court's decision to award less than the amounts requested for the Class
16 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
17 Expenses Payment, Administrator Expenses Payment and/or individual claims of plaintiff for
18 alleged wrongful termination, shall not constitute a material modification to the Agreement
19 within the meaning of this paragraph.

20 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
21 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
22 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
23 and (iii) addressing such post-Judgment matters as are permitted by law.

24 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
25 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
26 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
27 respective counsel, and all Participating Class Members who did not object to the Settlement as
28 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to

1 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
2 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
3 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
4 Parties' obligations to perform under this Agreement will be suspended until such time as the
5 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
6 the amount of the Net Settlement Amount.

7 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
8 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
9 modification of this Agreement (including, but not limited to, the scope of release to be granted
10 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
11 expeditiously work together in good faith to address the appellate court's concerns and to obtain
12 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
13 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
14 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
15 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
16 as long as the Gross Settlement Amount remains unchanged

17 **10. AMENDED JUDGMENT**

18 If any amended judgment is required under Code of Civil Procedure section 384, the
19 Parties will work together in good faith to jointly submit and a proposed amended judgment.

20 **11. ADDITIONAL PROVISIONS**

21 11.1. No Admission of Liability. Class Certification or Representative Manageability for Other
22 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
23 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
24 any of the allegations in the Operative Complaint have merit or that Defendant has any liability
25 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that
26 Defendant's defenses in the Action have merit. The Parties agree that class certification and
27 representative treatment is for purposes of this Settlement only. If, for any reason the Court does
28 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserve the right to

1 contest certification of any class for any reasons, and Defendant reserves all available defenses
2 to the claims in the Action, and Plaintiff reserves the right to move for class certification on any
3 grounds available and to contest Defendant's defenses. The Settlement, this Agreement and
4 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in
5 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement
6 and this Agreement).

7 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
8 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
9 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
10 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
11 or indirectly, specifically or generally, to any person, corporation, association, government
12 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
13 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
14 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
15 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
16 government agency. Each Party agrees to immediately notify each other Party of any judicial or
17 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant
18 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
19 other communication, before the filing of the Motion for Preliminary Approval, any with third
20 party regarding this Agreement or the matters giving rise to this Agreement except to respond
21 only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
22 Counsel's communications with Class Members in accordance with Class Counsel's ethical
23 obligations owed to Class Members.

24 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
25 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
26 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
27 ability to communicate with Class Members in accordance with Class Counsel's ethical
28 obligations owed to Class Members.

1 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
2 together with its attached exhibits shall constitute the entire agreement between the Parties
3 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
4 inducements made to or by any Party.

5 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
6 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
7 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
8 its terms, and to execute any other documents reasonably required to effectuate the terms of this
9 Agreement including any amendments to this Agreement.

10 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
11 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
12 Settlement Agreement, submitting supplemental evidence and supplementing points and
13 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
14 or content of any document necessary to implement the Settlement, or on any modification of the
15 Agreement that may become necessary to implement the Settlement, the Parties will seek the
16 assistance of a mediator and/or the Court for resolution.

17 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
18 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
19 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
20 action, or right released and discharged by the Party in this Settlement.

21 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
22 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
23 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
24 Part 10, as amended) or otherwise.

25 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
26 modified, changed, or waived only by an express written instrument signed by all Parties or their
27 representatives, and approved by the Court.

28 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to

1 the benefit of, the successors of each of the Parties.

2 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
3 governed by and interpreted according to the internal laws of the state of California, without
4 regard to conflict of law principles.

5 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
6 this Agreement. This Agreement will not be construed against any Party on the basis that the
7 Party was the drafter or participated in the drafting

8 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
9 during Action and in this Agreement relating to the confidentiality of information shall survive
10 the execution of this Agreement

11 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
12 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
13 in connection with the mediation, other settlement negotiations, or in connection with the
14 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
15 be used in any way that violates any existing contractual agreement, statute, or rule of court.

16 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
17 inserted for convenience of reference only and does not constitute a part of this Agreement.

18 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
19 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
20 weekend or federal legal holiday, such date or deadline shall be on the first business day
21 thereafter.

22 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
23 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
24 be accepted as an original. All executed counterparts and each of them will be deemed to be one
25 and the same instrument if counsel for the Parties will exchange between themselves signed
26 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
27 and contents of this Agreement.

28 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the

litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

11.19. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

///

IT IS SO AGREED:



Nohemi Martinez (Dec 4, 2022 18:36 CST)

Plaintiff, Daisy Nohemi Martinez

For Defendant, Tacos Por Favor

AGREED AS TO FORM ONLY:



David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff



Laurie M. Cortez
Counsel for Defendant

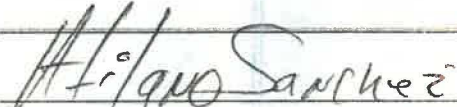
1 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
2 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
3 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
4 process.

5 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
6 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
7 illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel
8 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
9 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
10 Agreement.

11 ///

12 **IT IS SO AGREED:**

13
14 _____
15 Plaintiff, Daisy Nohemi Martinez

_____ 
For Defendant, Tacos Por Favor

16
17 **AGREED AS TO FORM ONLY:**

18
19 _____
20 David D. Bibiyan
21 Vedang J. Patel
22 Counsel for Plaintiff

_____ Laurie M. Cortez
Counsel for Defendant