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NATURE'S PRODUCE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

DIONICIO VELASQUEZ AND ISAIS VELASCO
as aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"), on behalf of the
State of California and other aggrieved employees

Plaintiff,

vs.

NATURE'S PRODUCE, a California
corporation dba NATURE'S FINEST
PRODUCE COMPANY; and DOES 1 through
10, inclusive,

Defendants.

CASE NO. 23STCV22680

REPRESENTATIVE PAGA ACTION

**JOINT STIPULATION OF
REPRESENTATIVE PAGA ACTION
SETTLEMENT AND RELEASE OF
CLAIMS**

Judge: Hon. Maren Nelson
Dept.: 17

Complaint Filed: September 19, 2023
First Amended Complaint Filed:
Trial Date: Not Yet Set

This Joint Stipulation of Representative PAGA Action Settlement and Release of Claims ("Settlement" or "Agreement") is made and entered into by and between Plaintiffs Dionicio Velasquez and Isais Velasco ("Plaintiffs" or "Representative Plaintiffs"), individually and on behalf of all putative Aggrieved Employees, and Defendant Nature's Produce Inc. (collectively referred to as "Defendant"). Plaintiffs and Defendant are collectively referred to herein as "the Parties."

I. DEFINITIONS

The following definitions are applicable to this Settlement, in addition to other terms defined elsewhere in this Settlement:

1 1. “Action” shall mean the consolidated operative Complaint of the civil action initially,
2 filed and separately maintained by Plaintiffs against Defendant but since consolidated into one single
3 representative PAGA action in the Superior Court of California, County of Los Angeles, Case No.
4 23STCV22860.

5 2. “Aggrieved Employees” shall mean all persons who, during the Representative Period,
6 have previously been or currently are employed in California by Defendant, as a non-exempt employee.
7 An “Aggrieved Employee” shall mean an individual who is a member of the Aggrieved Employees (or
8 if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal
9 representative or successor in interest evidenced by reasonable verification).

10 3. “Aggrieved Employee Notice” shall mean the Notice of Settlement and Approval, a
11 sample of which is attached hereto as Exhibit “A”. The Aggrieved Employee Notice shall further
12 contain (i) an Aggrieved Employee’s first and last name, (ii) last known address, (iii) the Aggrieved
13 Employee’s Individual Pay Periods, and (iv) the Aggrieved Employee’s individual share of the
14 Aggrieved Employees’ Payment.

15 4. “Aggrieved Employee’s Settlement Share” shall mean the value of each Aggrieved
16 Employee’s share of the Aggrieved Employees’ Payment as provided by this Agreement.

17 5. “Aggrieved Employees’ Payment” shall mean the remaining twenty-five percent (25%)
18 of the Net Settlement Amount to be distributed on a *pro rata* basis based upon the number of Pay
19 Periods worked by each Aggrieved Employee.

20 6. “Defense Counsel” shall mean the attorneys representing Defendant in the Action,
21 Matthew C. Sgnilek, Esq. of O’Hagan Meyer.

22 7. “Effective Date” shall mean the date by which this Settlement is approved by the
23 Superior Court by entry of the Judgment and the Judgment becomes Final. If no appeal is filed, the
24 Effective Date shall occur 60 calendar days from entry of Judgment by the Court. If a timely appeal is
25 filed, the Judgment shall become final on the date all appeals from the Judgment have been fully
26 adjudicated. The occurrence of the Effective Date is a prerequisite to any obligation of Defendant to pay
27 any funds into the Settlement Account.

28 8. “Individual Pay Periods” shall mean the number of Pay Periods for an individual

1 Aggrieved Employee.

2 9. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court that
3 the Parties anticipate will be entered following an Approval Hearing on the Settlement in this Action.

4 10. "LWDA Payment" shall mean the payment to the California Labor and Workforce
5 Development Agency ("LWDA") constituting seventy-five percent (75%) of the Net Settlement
6 Amount.

7 11. "Maximum Settlement Amount" shall mean the maximum settlement amount of Three
8 Hundred Thousand Dollars and Zero Cents (\$300,000.00) payable by Defendant as provided by this
9 Agreement, unless that amount is increased pursuant to Paragraph 12 below.

10 12. Defendant represents that as of July 25, 2024, the number of pay periods worked by
11 aggrieved employees during the PAGA Period is approximately 16, 273. If it is determined that the
12 pay periods through the PAGA Period exceeds 17,900 (16,273 plus 10% of 16,273), then Defendant
13 shall have the option of either (i) increasing the PAGA Payment Amount by an amount determined
14 by the following formula: Actual Number of Pay Periods ÷ 17,900 × PAGA Payment Amount; or
15 (ii) changing the end date of the PAGA Period to a date for which there are no more than 17,900 pay
16 periods.

17 13. "Net Settlement Amount" shall mean the Maximum Settlement Amount, less (i) the
18 Representative Plaintiff Payments approved by the Superior Court; (ii) the PAGA Counsel Fees
19 Payment approved by the Superior Court; (iii) the PAGA Counsel Litigation Expenses Payment
20 approved by the Superior Court; (iv) the Settlement Administrator Payment approved by the Superior
21 Court; and (v) any other fees or expenses (other than PAGA Counsel Fees Payment and PAGA Counsel
22 Litigation Expenses Payment) incurred in implementing the terms and conditions of this Agreement as
23 approved by the Superior Court.

24 14. "PAGA Counsel" shall mean the attorneys representing Plaintiffs in the Action Kane
25 Moon, Daniel J. Park, and Jaeyoung Lee of Moon Law Group and William C. Sung and Tiffany L. Luu
26 of Justice for Lawyers P.C.

27 15. "PAGA Counsel's Fees Payment" shall mean one-third (1/3) of the Maximum Settlement
28 Amount (currently estimated to be One Hundred Thousand Dollars and Zero Cents (\$100,000.00))

1 subject to approval by the Superior Court as PAGA Counsel's attorneys' fees incurred in connection
2 with the Action, including fees incurred in pre-filing investigation, filing of the Action, and all related
3 litigation activities, this Settlement, and all post-Settlement compliance procedures.

4 16. "PAGA Counsel's Litigation Expenses Payment" shall mean the actual litigation
5 expenses and/or costs expended by PAGA Counsel subject to approval by the Superior Court incurred in
6 connection with the Action, including pre-filing investigation, filing of the Action, and all related
7 litigation activities, this Settlement, and all post-Settlement compliance procedures. PAGA Counsel's
8 expenses are not to exceed Thirty-Thousand Dollars and Zero Cents (\$30,000.00).

9 17. "Pay Period" shall mean any pay period in which an Aggrieved Employee actually
10 received payment from Defendant as an hourly-paid, non-exempt employee.

11 18. "Representative Period" shall mean the period of time from August 19, 2022, through
12 August 25, 2024.

13 19. "Representative Plaintiff Payments" shall mean the special payments made to Plaintiffs
14 in their capacity as Representative Plaintiffs to compensate them for prosecuting the Action, and
15 performing work in support of the Action, in the amount of Ten Thousand Dollars and Zero Cents
16 (\$10,000.00), each, subject to approval by the Superior Court.

17 20. "Settlement Administrator" shall mean Phoenix Settlement Administrators proposed by
18 the Parties and appointed by the Superior Court to administer the Settlement.

19 21. "Settlement Administrator Payment" shall mean the payment to the Settlement
20 Administrator for its fees and expenses in administering this Settlement.

21 22. "Superior Court" shall mean the Superior Court of California for the County of Los
22 Angeles.

23 **II. RECITALS**

24 23. On August 17, 2023 and September 10, 2023, PAGA Counsel, on behalf of Plaintiffs and
25 the Aggrieved Employees, gave written notice to the Labor Workforce and Development Agency
26 ("LWDA") of the Labor Code violations Defendant is alleged to have violated. ("LWDA Exhaustion
27 Letters").

28 24. On September 19, 2023, Plaintiff Velasquez filed a Complaint against Defendant in the

1 Los Angeles County Superior Court, Case No. 23STCV22680 which had its class action claims later
2 dismissed and by virtue of the stipulation and Second Amended Complaint had its individual wage
3 claims dismissed. Any residual individual wage claims by Plaintiff Velasquez are resolved and released
4 by virtue of this Agreement and judgment in this Action. On September 29, 2023, Plaintiff Velasco
5 filed a Complaint against Defendant in the Los Angeles Superior Court, Case No. 23STCV23811.. Any
6 residual individual wage claims Plaintiff Velasco were resolved by virtue of a separate settlement
7 agreement and release between Defendant and Plaintiff Velasco.

8 25. In the Action, Plaintiffs pled a cause of action for Civil Penalties pursuant to the Private
9 Attorneys' General Act ("PAGA").

10 26. Defendant denies and continues to deny all of Plaintiffs' allegations inclusive of the
11 representative manageability of the Action. Specifically, Defendant contends (1) it did not fail to pay
12 Plaintiffs Aggrieved Employees the minimum, straight time, regular rate, and/or overtime wages; (2) it
13 paid Plaintiffs and Aggrieved Employees for all hours worked; (3) it provided Plaintiff and all
14 Aggrieved employees the required notice of material terms under Labor Code Section 2810.5; (4) it
15 provided Plaintiffs and all Aggrieved Employees with all meal periods according to law and/or paid
16 accurate meal period premium wages; (5) it provided Plaintiffs and all Aggrieved Employees with all
17 rest periods according to law and/or paid accurate rest period premium wages; (6) it did not fail to timely
18 pay Plaintiffs and Aggrieved Employees wages due and owing during employment and/or upon
19 separation; (7) it provided Plaintiffs and Aggrieved Employees with accurate itemized wage statements,
20 consistent with Labor Code Section 226; (8) it properly maintained all payroll records; (9) it reimbursed
21 Plaintiffs and all Aggrieved employees for all necessary business expenses; (10) it provided and
22 appropriately compensated Plaintiffs and all Aggrieved Employees for sick leave; (11) Aggrieved
23 Employees are not entitled to penalties under PAGA; and (12) it is not liable for damages, including
24 civil penalties, attorneys' fees, or costs of litigation to Aggrieved Employees.

25 27. In connection with the Action, and in order to work toward a mediated resolution without
26 the time and expense of formal discovery, the Parties produced voluminous documents and data
27 (including, by Defendant, human resources documents and policies, time records, and payroll data
28 during the Representative Period) which were reviewed, investigated, and analyzed by PAGA Counsel.

1 28. On July 25, 2024, the Parties in Action participated in a full day of mediation before an
2 experienced employment and class action mediator, Lynn Frank, Esq. (the “Mediation”) and the Parties
3 reached a settlement at the Maximum Settlement Amount.

4 29. The Settlement described in this Agreement represents a compromise and settlement of
5 highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission by
6 Defendant that Plaintiffs’ claims in the Action have any merit or that Defendant has any liability to
7 Plaintiffs, the Aggrieved Employees or the State on those claims, or as an admission by Plaintiffs that
8 Defendant’s defenses in the Action have any merit. This Settlement is intended to fully, finally, and
9 forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and
10 conditions set forth in this Settlement.

11 30. Based on its own thorough, independent investigation and evaluation of this case, PAGA
12 Counsel is of the opinion that the Settlement of this Action with Defendant for the consideration and on
13 the terms set forth in this Settlement is fair, reasonable, adequate, and in the best interest of the LWDA
14 and Aggrieved Employees in light of all known facts and circumstances, including the risk of significant
15 costs and delay, the defenses asserted by Defendant including the risks of adverse determinations on the
16 merits and numerous potential appellate issues. Although Defendant contends that it has no liability in
17 the Action, Defense Counsel shares PAGA Counsel’s belief that the Settlement represents a fair and
18 adequate settlement given the respective risks associated with the case.

19 31. Based on the foregoing Recitals, the Parties agree as follows:

20 **III. PROCEDURE FOR APPROVING SETTLEMENT**

21 32. **Motion for Approval of Settlement by the Superior Court.** Plaintiffs will move the
22 Superior Court for an order granting Approval of the Settlement, and approving the Aggrieved
23 Employee Notice (attached as Exhibit “A” to this Stipulation) (“Motion for Approval”). Any unresolved
24 disagreement among the Parties concerning the Aggrieved Employee Notice or other documents
25 necessary to implement the Settlement will be referred first to Lynn Frank, Esq., and if no resolution is
26 reached, then to the Superior Court.

27 33. At the hearing on the Motion for Approval, the Parties anticipate that they will jointly
28 appear, support the granting of the Motion for Approval, and obtain an order granting approval of the

1 Settlement and granting approval of the Aggrieved Employee Notice.

2 34. Should the Superior Court require any amendments to this Agreement or the Motion for
3 Approval, the Parties agree to work jointly to resolve any issues in order to secure the Superior Court's
4 approval.

5 35. Should the Superior Court decline to approve any material aspects of the Settlement, the
6 Settlement will be null and void and the Parties will have no further obligations under it. In such event,
7 the Parties shall be returned to their respective positions as of the date and time immediately prior to the
8 execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not
9 been executed.

10 36. Upon approval of the Settlement by the Superior Court, the Parties will present for the
11 Superior Court's approval and entry a Proposed Final Order and Judgment. The entry of the Order and
12 Judgment shall permanently bar all Aggrieved Employees from prosecuting against Defendant any
13 claims for PAGA penalties through the Representative Period, which were or could have been brought
14 in this Action, as well as all claims as set forth in the Release contained in Section V of this Agreement,
15 whether known or unknown.

16 37. After entry of the Judgment, the Superior Court will have continuing jurisdiction over the
17 Action and the Settlement solely for purposes of (i) enforcing this Settlement, (ii) addressing settlement
18 administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under
19 court rules or applicable law.

20 38. **Aggrieved Employee Notice.** After the Superior Court enters its order granting
21 Preliminary Approval, every Aggrieved Employee will be provided with the Aggrieved Employee
22 Notice (in English and Spanish) which will include the Aggrieved Employee Notice completed to reflect
23 the order granting Approval of the Settlement and the Aggrieved Employee's information as follows:

24 (a) Within twenty-one (21) days after the Motion for Approval is granted, Defendant
25 will provide to the Settlement Administrator the "Aggrieved Employees' Data," which shall consist of
26 an electronic database containing (i) each Aggrieved Employee's first and last name, (ii) last known
27 mailing address, (iii) the Aggrieved Employee's Social Security number or Tax ID, and (iv) the
28 Aggrieved Employee's total number of Individual Pay Periods. If any or all of the Aggrieved

1 Employees' Data are unavailable to Defendant, Defendant will so inform PAGA Counsel prior to the
2 date on which Defendant is required to submit the Aggrieved Employees' Data to the Settlement
3 Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the
4 Aggrieved Employees' Data prior to when it must be submitted to the Settlement Administrator. This
5 information will otherwise remain confidential and will not be disclosed to anyone, except as required to
6 applicable taxing authorities, as required to carry out the reasonable efforts to identify Aggrieved
7 Employee information as described in this Agreement pursuant to Defendant's express written
8 authorization, or by order of the Superior Court.

9 (b) If An Aggrieved Employee Notice is returned by the U.S. Postal Service because
10 of an incorrect address, the Settlement Administrator will promptly, and not later than five (5) days from
11 receipt of the returned packet, search for a more current address for the Aggrieved Employee and re-
12 mail the Aggrieved Employee Notice to the Aggrieved Employee. The Settlement Administrator will
13 use the Aggrieved Employees' Data and otherwise work with Defense Counsel or utilize its own
14 resources such as skip traces to find a more current address. The Settlement Administrator will be
15 responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and
16 fee, to trace the mailing address of any Aggrieved Employee for whom an Aggrieved Employee Notice
17 is returned by the U.S. Postal Service. These reasonable steps shall include the tracking of all
18 undelivered mail; performing address searches for all mail returned without a forwarding address; and
19 promptly re-mailing to Aggrieved Employees for whom new addresses are found.

20 39. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and
21 conditions of this Settlement, Plaintiffs, Aggrieved Employees, Defendant, and its respective counsel
22 hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment
23 proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, a
24 motion under Code of Civil Procedure Section 473, and any extraordinary writ, and the Judgment
25 therefore will become non-appealable by them at the time it is entered. The waiver of appeal does not
26 include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment
27 proceedings, or any waiver of the right to appeal a reduction by the Court of the requested PAGA
28 Counsel Fees Payment. If an appeal is taken from the Judgment, the time for consummation of the

1 Settlement (including making payments under the Settlement) will be suspended until such time as the
2 appeal is finally resolved and the Judgment, consistent with the terms of this Settlement, becomes Final.

3 **40. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If
4 after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition,
5 writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such that there is a
6 material modification to the Settlement, and that court's decision is not completely reversed and the
7 Judgment is not fully affirmed on review by a higher court, then either Party will have the right to void
8 the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing
9 court, and the Superior Court, not later than fourteen (14) days after the reviewing court's decision
10 vacating, reversing, or materially modifying the Judgment becomes final. A vacation, reversal, or
11 modification of the Superior Court's award of the Representative Plaintiff Payments, the PAGA Counsel
12 Fees Payment, and/or PAGA Counsel Litigation Expenses Payment will not constitute a vacation,
13 reversal, or material modification of the Judgment within the meaning of this Paragraph.

14 **41. Establishment of Settlement Account.** The Settlement Administrator shall establish a
15 Settlement Account within ten (10) days of the Effective Date and notify the Parties when the Settlement
16 Account has been established. The Settlement Administrator shall also provide Defendant with an
17 itemized statement for the total amount to be deposited into the Settlement Account, which shall equal
18 the Maximum Settlement Amount ("Settlement Account Deposit"). Within ten (10) days after receiving
19 notification of the Settlement Account and statement for the Settlement Account Deposit, Defendant
20 shall pay into the Settlement Account an amount equal to the Settlement Account Deposit. Defendant
21 shall have no obligation to pay any additional funds into the Settlement Account.

22 **42. Payment of Aggrieved Employees' Settlement Shares.** The Settlement Administrator
23 shall pay to each Aggrieved Employee his or her Aggrieved Employee's Settlement Share from the
24 Settlement Account. The Settlement Administrator shall pay each Aggrieved Employee's Settlement
25 Share by sending a check in the appropriate amount to the Aggrieved Employee at the address indicated
26 in the Aggrieved Employees' Data. Such payment, with the Aggrieved Employees' Notice, shall be sent
27 by the Settlement Administrator via U.S. Mail within ten (10) calendar days of its receipt of the
28 Settlement Account Deposit from Defendant.

1 **43. Uncashed Aggrieved Employees' Settlement Share Checks.** Any checks paid to
2 Aggrieved Employees shall be negotiable for one hundred and eighty (180) calendar days from the date
3 of their issuance. An Aggrieved Employee must cash his or her Aggrieved Employee's Settlement Share
4 check within one hundred and eighty (180) calendar days after it is mailed to him or her. If a check
5 remains uncashed after one hundred and eighty (180) calendar days from the initial mailing, or if a
6 check is returned to the Settlement Administrator as undeliverable during the one hundred eighty-day
7 period, the Settlement Administrator shall take all reasonable efforts to identify the Aggrieved
8 Employee's correct address, including the performance of a "skip-trace." If an updated address can be
9 identified, the Settlement Administrator shall issue another check to the Aggrieved Employee and mail it
10 to the Aggrieved Employee at his or her updated address. If an updated address for the Aggrieved
11 Employee cannot be identified, if a reissued check is once again returned to the Settlement
12 Administrator as undeliverable, or if the reissued check remains uncashed after one hundred eighty
13 (180) calendar days, the Settlement Administrator will keep an accounting of such funds and shall give
14 notice to the Parties of the total balance of uncashed Aggrieved Employee's Settlement Shares. An
15 Aggrieved Employee who fails to negotiate or receive their Settlement Share check despite the
16 procedures described above shall nevertheless remain bound by the Settlement and the releases
17 contained herein.

18 **44.** The funds represented by Aggrieved Employee's Settlement Share checks remaining
19 uncashed for more than one hundred and eighty (180) calendar days after issuance shall be voided and
20 then shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed
21 Property Law, California Civil Code Section 1500, *et seq.*, in the names of those Aggrieved Employees
22 who did not cash their checks until such time they claim their property. The Parties agree that this
23 disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net
24 Settlement Amount will be paid out to Aggrieved Employees, whether or not they all cash their
25 settlement checks.

26 **45. Payment of PAGA Counsel's Fees Payment and PAGA Counsel's Litigation**
27 **Expenses Payment.** The Settlement Administrator shall pay to PAGA Counsel the PAGA Counsel's
28 Fees Payment and PAGA Counsel's Litigation Expenses Payment from the Settlement Account. The

Settlement Administrator shall pay the PAGA Counsel's Fees Payment and PAGA Counsel's Litigation Expenses Payment by sending a wire or check in the appropriate amount to PAGA Counsel at the address provided for in Paragraph 76. Such payment shall be sent by the Settlement Administrator within ten (10) calendar days of its receipt of the Settlement Account Deposit from Defendant.

46. **Final Report by Settlement Administrator to Superior Court.** Within ten (10) days after final disbursement of all funds from the Settlement Account, the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the disbursements of all funds from the Settlement Account. Within ten (10) days after transmission of any remaining unclaimed funds to Controller of the State of California the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the transmission of any remaining unclaimed funds to Controller of the State of California as outlined in Paragraph 42.

IV. **SETTLEMENT TERMS AND CONDITIONS**

47. **Aggrieved Employee's Settlement Shares.** Subject to the terms and conditions of this Settlement, the Settlement Administrator will calculate the Aggrieved Employee's Settlement Shares for each Aggrieved Employee within ten (10) days after Defendant provide the Settlement Administrator with the Aggrieved Employees' Data. The Aggrieved Employee's Settlement Share for each Aggrieved Employee will be calculated as follows, understanding that the formulas below do not constitute an admission by either Party, and are intended only to provide a practical means to simplify and administer the claims process:

(a) **Number of Aggrieved Employees and Pay Periods.** Defendant shall determine the total number of Aggrieved Employees and the aggregate number of Pay Periods for those Aggrieved Employees as of the time of the close of the Representative Period. This information shall be provided to the Settlement Administrator along with the Aggrieved Employees' Data as described in Paragraph 37(a) above.

(b) **Calculation of the Pay Period Value.** The Settlement Administrator shall determine the value of a Pay Period ("Pay Period Value") by taking the Aggrieved Employees' Payment amount and dividing it by the sum of all Aggrieved Employees' Pay Periods.

1 (c) **Calculation of Aggrieved Employee's Settlement Shares.** The Settlement
2 Administrator shall assign to each Aggrieved Employee an Aggrieved Employee's Settlement Share
3 which shall be equal to the Pay Period Value multiplied by each Aggrieved Employee's Individual Pay
4 Periods. Upon calculation of the Aggrieved Employee's Settlement Share, the Settlement Administrator
5 shall furnish to PAGA Counsel and Defense Counsel a worksheet containing a list of employee
6 identification numbers for the Aggrieved Employees with their corresponding Individual Pay Periods
7 and Aggrieved Employee's Settlement Share.

8 48. **Taxes and Withholdings.** Each Aggrieved Employee's Settlement Share is intended to
9 settle the Aggrieved Employees' claims for civil penalties. Accordingly, one hundred percent (100%) of
10 each Aggrieved Employee's Settlement Share shall represent civil penalties. The Aggrieved Employee's
11 Settlement Share shall be paid to the Aggrieved Employee in full without deductions or withholdings,
12 and the Settlement Administrator shall issue an IRS Form 1099 to each Aggrieved Employee for that
13 amount, to the extent the Aggrieved Employee's Settlement Share is Six Hundred Dollars and Zero
14 Cents (\$600.00) or more. Each Aggrieved Employee shall be individually responsible for their own
15 share of applicable income tax withholdings and deductions for his or her Aggrieved Employee's
16 Settlement Share.

17 49. **Total Payment Amount.** In no event will Defendant be required to pay more than the
18 Maximum Settlement Amount (unless that amount is increased pursuant to Paragraph 12 above) for
19 distribution to the Plaintiffs, PAGA Counsel, Aggrieved Employees, the LWDA, Settlement
20 Administrator, or for any other costs or expenses not otherwise enumerated.

21 50. **Payments to Plaintiffs and PAGA Counsel and Others.** Subject to the terms and
22 conditions of this Settlement, the Settlement Administrator will make the following payments out of the
23 Maximum Settlement Amount as follows:

24 (a) **To Plaintiffs:** In addition to their Aggrieved Employee's Settlement Share,
25 Plaintiffs will apply to the Superior Court for Representative Plaintiff Payments in amounts not to
26 exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), each. Defendant will not oppose these
27 Representative Plaintiff Payments. The Settlement Administrator will pay the Representative Plaintiff
28 Payments approved by the Superior Court out of the Maximum Settlement Amount. Payroll tax

1 withholding and deductions will not be taken from the Representative Plaintiff Payments and an IRS
2 Form 1099 will be issued to Plaintiffs for these payments.

3 (b) **To PAGA Counsel:** PAGA Counsel will apply to the Superior Court for the
4 PAGA Counsel Fees Payment in an amount not to exceed one-third (1/3) of the Maximum Settlement
5 Amount (currently estimated to be One Hundred Thousand Dollars and Zero Cents (\$100,000.00)).
6 PAGA Counsel will also submit to the Superior Court a memorandum of costs for the PAGA Counsel
7 Litigation Expenses Payment in an amount not to exceed Thirty Thousand Dollars and Zero Cents
8 (\$30,000.00) as request reasonable costs of suit to be paid from the Maximum Settlement Amount.
9 Defendant will not oppose these requests. The Settlement Administrator will pay the amounts approved
10 by the Superior Court out of the Maximum Settlement Amount. Withholding and deductions will not be
11 taken from the PAGA Counsel Fees Payment or PAGA Counsel Litigation Expenses Payment and one
12 or more IRS Forms 1099 will be issued to PAGA Counsel with respect to those payments.

13 (c) **To the LWDA:** As part of their Motion for Approval, the Plaintiffs will apply to
14 the Superior Court for approval of the LWDA Payment in the estimated amount of One Hundred Twelve
15 Thousand and Five Dollars (\$112,500), which shall constitute the LWDA's seventy-five percent (75%)
16 share of the estimated One Hundred Fifty Thousand Dollars (\$150,000) in civil penalties paid under this
17 Settlement. The remaining estimated Thirty Thousand and Five Hundred Dollars (\$37,500) in civil
18 penalties shall be distributed on a *pro rata* basis based upon the number of pay periods worked by each
19 Aggrieved Employee ("Aggrieved Employees' Payment").

20 (d) **To the Settlement Administrator:** The Settlement Administrator will be paid
21 from the Maximum Settlement Amount its reasonable fees and expenses as approved by the Superior
22 Court, which are estimated to be \$5,000.00.

23 51. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court to
24 appoint Phoenix Settlement Administrators, a qualified and experienced administrator based in
25 California where the Action is venued, to serve as the Settlement Administrator, which, as a condition of
26 appointment, will agree to be bound by this Agreement with respect to the performance of its duties and
27 its compensation. The Settlement Administrator's duties will include (i) calculating Aggrieved
28 Employee's Settlement Shares; (ii) preparing, printing, and mailing the Aggrieved Employee Notice to

1 all Aggrieved Employees; (iii) using reasonable measures to contact all Aggrieved Employees, including
2 conducting a National Change of Address search on all Aggrieved Employees before mailing the
3 Aggrieved Employee Notice to each Aggrieved Employee's address; (iv) re-mailing the Aggrieved
4 Employee Notice to the Aggrieved Employee's new address for those Aggrieved Employees whose
5 address had changed; (v) setting up a toll-free telephone number to receive calls from Aggrieved
6 Employees; (vi) using reasonable measures to deliver issued checks to Aggrieved Employees, including
7 use of a "skip-trace" for undeliverable checks; and (vii) otherwise administering the Settlement pursuant
8 to this Agreement. The Settlement Administrator's reasonable fees and expenses are estimated to be
9 Five Thousand Dollars (\$5,000) and will be paid out of the Maximum Settlement Amount, as set forth
10 herein, subject to Court approval.

11 **V. RELEASE OF CLAIMS**

12 52. **Plaintiffs' Released Claims.** Plaintiffs, individually and on behalf of Plaintiffs' heirs,
13 executors, administrators, representatives, attorneys, successors and assigns knowingly and voluntarily
14 release and forever discharge Defendant, including any and all parent corporation, affiliates,
15 subsidiaries, managers, divisions, predecessors, insurers, franchisors, successors and assigns, including
16 but not limited to each of their current and former employees, attorneys, officers, directors and agents
17 thereof, both individually and in their business capacities, and their employee benefit plans and
18 programs and the trustees, administrators, fiduciaries and insurers of such plans and programs
19 (collectively, "Plaintiffs' Released Parties"), to the fullest extent permitted by law, all claims that were,
20 or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the
21 Plaintiffs' respective LWDA letters ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any
22 claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment
23 benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any
24 time. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to,
25 the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs'
26 Release shall be and remain effective in all respects, notwithstanding such different or additional facts or
27 Plaintiffs' discovery of them. Plaintiffs' Release specifically excludes claims for unemployment
28 insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor

1 Code Sections 132a and 4553) and Plaintiff Velasco's claims for (1) religious discrimination; (2)
2 disability discrimination; (3) failure to accommodate disability; (4) failure to engage in the interactive
3 process; (5) retaliation in violation of the FEHA; and (6) wrongful termination in violation of public
4 policy, which Defendant has agreed to settle on an Individual Basis pursuant to a separate individual
5 agreement which will include a release for Plaintiff's Velasco's individual FEHA and termination
6 claims("the individual agreement"). Any residual individual wage claims by Plaintiff Velasquez and
7 Plaintiff Velasco are resolved and released by virtue of this Agreement and judgment in this Action .

8 53. To affect a full and complete general release as described above, Plaintiffs expressly
9 waive and relinquish all rights and benefits of § 1542 of the Civil Code of the State of California and
10 does so understanding and acknowledging the significance and consequence of specifically waiving §
11 1542. Thus, notwithstanding the provisions of § 1542, and to implement a full and complete release and
12 discharge of all parties, Plaintiffs expressly acknowledge this Settlement Agreement is intended to
13 include in its effect, without limitation, all claims Plaintiffs do not know or suspect to exist in Plaintiffs'
14 favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates
15 the extinguishment of any such claims. Plaintiffs warrant Plaintiffs have read this Settlement
16 Agreement, including this waiver of California Civil Code § 1542, and that Plaintiffs have consulted
17 with or had the opportunity to consult with counsel of Plaintiffs' choosing about this Settlement
18 Agreement and specifically about the waiver of § 1542, and that Plaintiffs understand this Settlement
19 Agreement and the § 1542 waiver, and so Plaintiffs freely and knowingly enter into this Settlement
20 Agreement. Plaintiffs further acknowledge that Plaintiffs later may discover facts different from or in
21 addition to those Plaintiffs now know or believe to be true regarding the matters released or described in
22 this Settlement Agreement, and even so Plaintiffs agree that the releases and agreements contained in
23 this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of
24 any different or additional facts. Plaintiffs expressly assume any and all risk of any mistake in
25 connection with the true facts involved in the matters, disputes or controversies released or described in
26 this Settlement Agreement or with regard to any facts now unknown to Plaintiffs relating thereto.

27 54. **Aggrieved Employees Released Claims.** All Aggrieved Employees will release
28 Defendant and its past, present and/or future direct and/or indirect, officers, directors, members,

managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers from all causes of action and claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 that were alleged in the operative complaint in the Action or LWDA Letters or reasonably could have been alleged based on the facts, causes of action and legal theories contained in the operative complaint in the Action or LWDA letters, including claims for civil penalties based on the following: (i) failure to pay all regular rate wages, minimum wages, and overtime wages due; (ii) failure to provide compliant meal periods; (iii) failure to provide compliant rest breaks; (iv) failure to timely pay wages during employment; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages and vacation timely at time of termination or resignation; (vii) failure to reimburse necessary expenditures; (viii) failure to maintain accurate records and/or (ix) claims. causes of action or legal theories of relief seeking civil penalties under the California Labor Code Private Attorneys General Act of 2004 plead in the operative complaint and underlying LWDA exhaustion letters filed by both Velasquez and Velasco..

55. Released Parties includes Defendant and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

56. In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals meeting the definition of an Aggrieved Employee may not exclude themselves from the Settlement and shall receive a payment for the amount of each such individual's estimated share of the PAGA Payment, and shall have released PAGA claims, as outlined in Paragraph 54.

57. The PAGA Released Claims described in Paragraph 53 expressly exclude all claims made by an Aggrieved Employee for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, claims while classified as exempt, and claims outside

1 of the Representative Period.

2 58. **PAGA Counsel.** As of the Effective Date, and except as otherwise provided by this
3 Settlement, PAGA Counsel and any counsel associated with PAGA Counsel waive any further claims to
4 costs and attorneys' fees and expenses against Defendant or the Released Parties based on any claim
5 released by this agreement during the Representative Period.

6 59. **No Effect on Other Benefits.** The payment the Aggrieved Employee's Settlement Shares
7 will not result in any additional employee benefit payments (such as 401(k), vacation, or bonus) and
8 shall not have any effect on the eligibility for, or calculation of, any employee benefit.

9 **VI. DUTIES OF THE PARTIES**

10 60. **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
11 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
12 limited to, execution of such other documents and the taking of such other actions as may reasonably be
13 necessary to fulfill the terms of this Settlement unless the Court denies the Settlement with prejudice.
14 The Parties shall use their best efforts, including all efforts contemplated by this Stipulation and any
15 other efforts that may become necessary by court order or otherwise, to effectuate this Stipulation and
16 the terms set forth herein. As soon as practicable after execution of this Stipulation, PAGA Counsel,
17 with the cooperation of Defendant and Defense Counsel, shall take all necessary and reasonable steps to
18 secure the Court's approval of this Stipulation. The Parties will work together to make any non-material
19 modifications of the Settlement requested by the Court to obtain approval of the Parties' Settlement.

20 61. **Duty to Support and Defend the Settlement.** The Parties agree to abide by all of the
21 terms of the Settlement in good faith and to support the Settlement fully and to use their best efforts to
22 defend this Settlement from any legal challenge, whether by appeal or collateral attack.

23 **VII. MISCELLANEOUS TERMS**

24 62. **No Admission of Liability.** Defendant denies that it has engaged in any unlawful
25 activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims
26 asserted in the Action. This Settlement is entered into solely for the purpose of compromising highly
27 disputed claims. Nothing in this Settlement is intended or will be construed as an admission of liability
28 or wrongdoing by Defendant, an admission by Plaintiffs that any of their claims were non-meritorious,

1 or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiffs and
2 Defendant were willing to settle the Action will have no bearing on, and will not be admissible in
3 connection with, any litigation (other than solely in connection with the Settlement).

4 63. Whether or not the Judgment becomes Final, neither the Settlement, any document,
5 statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those
6 matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be
7 evidence for any purpose adverse to Defendant or any of the Released Parties, including, but not limited
8 to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any
9 liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in
10 evidence against any of the Released Parties, or any other civil, criminal or administrative action or
11 proceeding except for purposes of effectuating this Settlement.

12 64. Notwithstanding Paragraph 64 of this Settlement, any and all provisions of this
13 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or
14 all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

15 65. **Non-Disparagement.** Plaintiffs agree not to make any untruthful, malicious, disparaging
16 or defamatory statements, allegations, comments or communications, regardless of form (whether
17 written, oral, electronic, including but not limited to Glassdoor, Yelp, or otherwise), regarding the
18 Released Parties. Plaintiffs further agree not to encourage authorize or permit any such statements,
19 allegations, comments or communications to be made by others on Plaintiffs' behalf. To the extent
20 Plaintiffs have posted any negative comments about the Released Parties on Glassdoor, Yelp, or other
21 websites, Plaintiffs agree to request that these comments be removed and to provide a copy of such
22 request to Defense Counsel within 30 days of the execution of this Agreement. Notwithstanding the
23 foregoing, nothing in this Paragraph shall be construed to abridge, or interfere with, PAGA Counsel's
24 rights and obligations under California Rules of Professional Conduct, rule 1-500.

25 66. **Waiver of Reemployment.** Plaintiffs acknowledge that they have no intent to apply for
26 employment and/or re-employment with Defendant. Plaintiffs further acknowledge that Defendant or
27 any related, successor, parent, or subsidiary companies has the right to refuse rehire Plaintiffs for non-
28 discriminatory and non-retaliatory reasons.

1 **67. Integrated Agreement.** After this Settlement is signed and delivered by all Parties and
2 their counsel, this Settlement and its exhibits will constitute the entire agreement between the Parties
3 relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants,
4 or inducements have been made to any Party concerning this Settlement or its exhibits other than the
5 representations, warranties, covenants, and inducements expressly stated in this Settlement and its
6 exhibits.

7 **68. Attorney Authorization.** PAGA Counsel and Defense Counsel warrant and represent
8 that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required
9 or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute
10 any other documents required to effectuate the terms of this Settlement. The Parties and their counsel
11 will cooperate with each other and use their best efforts to affect the implementation of the Settlement.
12 In the event the Parties are unable to reach agreement on the form or content of any document needed to
13 implement the Settlement, or on any supplemental provisions that may become necessary to effectuate
14 the terms of this Settlement, the Parties will seek the assistance of mediator Lynn Frank, Esq., and if no
15 resolution is reached the Superior Court, and in all cases all such documents, supplemental provisions
16 and assistance of the court will be consistent with this Settlement.

17 **69. Modification of Agreement.** This Agreement, and any and all parts of it, may be
18 amended, modified, changed, or waived only by an express written instrument signed by all Parties,
19 their successors-in-interest, and/or the Parties' respective counsel, as authorized, and approved by the
20 Court.

21 **70. Settlement Binding on Successors.** This Settlement Agreement will be binding upon,
22 and inure to the benefit of, the successors of each of the Parties.

23 **71. Applicable Law.** All terms and conditions of this Settlement and its exhibits will be
24 governed by and interpreted according to the laws of the State of California, without giving effect to any
25 conflict of law principles or choice of law principles.

26 **72. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of
27 this Settlement. This Settlement will not be construed against any Party on the basis that the Party was
28 the drafter or participated in the drafting.

1 73. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this
2 Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this
3 Settlement through arms-length negotiations, taking into account all relevant factors, current and
4 potential.

5 74. **Headings.** The descriptive heading of any section or Paragraph of this Settlement is
6 inserted for convenience of reference only and does not constitute a part of this Settlement.

7 75. **Notice.** All notices, demands or other communications given under this Settlement will
8 be in writing and deemed to have been duly given as of the third business day after mailing by U.S.
9 Mail, addressed as follows:

10 *To PAGA Counsel:*

Kane Moon (SBN 249834)
E-mail: kmoon@moonlawgroup.com
Daniel J. Park (SBN 274973)
E-mail: dpark@moonlawgroup.com
Jaeyoung Lee (SBN 344198)
E-mail: jlee@moonlawgroup.com
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Telephone: (213) 232-3128
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Los Angeles, CA 90010
Tel: 323-922-2000
Fax: 323-922-2000

Attorneys for Plaintiff Isaias Velasco

11 *To the Defendant's Counsel:*

Matthew C. Sgnilek, Esq.

O'HAGAN MEYER
4695 MacArthur Court, 9th Floor
Newport Beach, CA 92660

12 76. **Execution in Counterpart.** This Settlement may be executed in one or more

1 counterparts. All executed counterparts and each of them will be deemed to be one and the same
2 instrument provided that counsel for the Parties will exchange between themselves original signed
3 counterparts. Facsimile signatures, scanned PDF signatures, and electronic (e.g. DocuSign) signatures
4 will be presumptive evidence of execution of the original, which shall be produced on reasonable
5 request. Any executed counterpart will be admissible to prove the existence and contents of this
6 Settlement.

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8 DATED: 12-17-24 **Diononacio Velasquez**

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10 Dionicio VB

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12 DATED: 12/10/2024 **Isais Velasco**

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14 Isais

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16 DATED: _____ **NATURE'S PRODUCE INC.**

17 By: _____

18 Its: _____
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28

1 DATED: 12/17/2024

MOON LAW GROUP

2 By: 

3 Attorneys for Plaintiff
4 Dionacio Velasquez

5 **JUSTICE FOR LAWYERS P.C.**

6 By: 

7 William C. Sung
8 Tiffany L. Luu
9 Attorneys for Plaintiff
10 Isias Velasco

11 DATED: _____

O'HAGAN MEYER

12 By: _____

13 Matthew C. Sgnilek, Esq.

14 Attorneys for Defendant Nature's Produce
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