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on behalf of herself and all others similarly situated
and aggrieved

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

LEAH RUBY HERNANDEZ, an individual,
and on behalf of all others similarly situated,

Plaintiff,

v.

OSEN IRVINE, INC., a California
corporation; THE OSEN GROUP, INC., a
California corporation; YAKINIKU BY
OSEN, INC., a California corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 30-2023-01358173-CU-OE-
CXC

[Assigned to the Hon. Randall J. Sherman
in Dept. CX105]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: October 31, 2023
Trial Date: None Set

This Class and PAGA Settlement Agreement (“Settlement Agreement” or “Agreement”) is made by and between plaintiff Leah Ruby Hernandez (“Plaintiff”) and defendants Osen Irvine, Inc., Yakiniku by Osen, Inc., and Golden Goose Family, Inc. (collectively, “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

1.1. “Action” or “Actions” means the Plaintiff’s wage and hour class action, captioned *Leah Ruby Hernandez v. Osen Irvine, Inc., et al.*, Case No. 30-2023-01358173-CU-OE-CXC, initiated on October 31, 2023, and pending in the Superior Court of the State of California, County of Orange (“Class Action”); and separate representative action under PAGA captioned *Leah Ruby Hernandez v. Osen Irvine, Inc., et al.*, Case No. 30-2024-01375165-CU-OE-CJC, initiated on January 25, 2024, and pending in the Superior Court of the State of California, County of Orange (“PAGA Action”), to be consolidated by amended complaint in the Class Action.

1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”), the neutral entity appointed by Plaintiff to administer the Settlement.

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

1.4. “Aggrieved Employees” means all persons currently or formerly employed by Defendants, either directly or through any subsidiary, staffing agency, or professional employer organization, as non-exempt, hourly-paid employees in the State of California during the PAGA Period.

1.5. “Class” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency, or professional employer organization, as non-exempt, hourly-paid employees in the State of California during the Class Period.

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

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean

the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

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

1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

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

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

1.12. "Class Period" means the period from October 31, 2019 through December 20, 2024.

1.13. "Class Representative" means the named plaintiff in the operative complaint in the Action, Leah Ruby Hernandez, seeking Court approval to serve as a Class Representative.

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

1.15. "Court" means the Superior Court of California, County of Orange.

1.16. "Defendants" means named defendants Osen Irvine, Inc., Yakiniku by Osen, Inc., and Golden Goose Family, Inc.

1.17. "Defense Counsel" means Haewon Kim of Law Offices of Haewon Kim

1.18. "Effective Date" means the later of: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the

1 latest of the following occurrences: (a) if no Participating Class Member objects to the
2 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
3 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
4 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
5 affirms the Judgment and issues a remittitur.

6 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

7 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
8 of the Settlement.

9 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final
10 Approval.

11 1.22. “Gross Settlement Amount” means \$400,000.00 (Four Hundred Thousand Dollars and
12 Zero Cents) which is the total amount Defendants agree to pay under the Settlement, except as
13 provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage
14 Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay
15 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class
16 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative
17 Service Payment, and Administration Expenses Payment.

18 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
19 Net Settlement Amount calculated according to the number of Workweeks worked during the
20 Class Period.

21 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of
22 the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA
23 Period.

24 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

25 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
26 entitled, under Labor Code section 2699, subd. (i).

27 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
28 under Labor Code section 2699, subd. (i).

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

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

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

1.31. “PAGA Period” means the period from October 21, 2022 through the end of the Class Period.

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

1.33. “PAGA Notice” means plaintiff Leah Ruby Hernandez’s October 31, 2023 letter to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000.00) and the 75% to the LWDA (\$30,000.00) in settlement of PAGA claims.

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

1.36. “Plaintiff” means Leah Ruby Hernandez, the named plaintiff in the Action.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4

below.

1.41. “Released Parties” means: Defendants, and each of their former, present and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, insurers, reinsurers, and/or legal representatives.

1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

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

1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

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

2. RECITALS

2.1. On October 31, 2023, Plaintiff commenced this Action by filing a complaint in the Superior Court of California, County of Orange, Case No. 30-2023-01358173-CU-OE-CXC alleging causes of action against Defendants for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to pay all wages due upon separation from employment; (6) failure to provide accurate wage statements; (7) failure to timely pay wages during employment; (8) failure to indemnify for business expenses; (9) failure to remit payment for all vested vacation hours; and (10) engaging in unfair competition (“Class Action”).

2.2. On October 31, 2023, Plaintiff submitted to the LWDA and served on Defendants a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations (“PAGA Notice”)

2.3. On January 25, 2024, after sixty-five (65) days had passed without any action by the LWDA with respect to the Labor Code violations alleged in the PAGA Notice, Plaintiff filed a separate representative action under PAGA against Defendants in the Superior Court of California, County of Orange, Case No. 30-2024-01375165-CU-OE-CJC, for the Labor Code violations set out in the PAGA Notice (“PAGA Action”).

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

2.5. Prior to mediation, Plaintiff obtained, through informal discovery: (1) time and payroll records for approximately 100% of the estimated 253 putative class members during the Class Period; (2) data points, including the number of Workweeks during the Class Period, and data points extracted from the provided time and payroll records; (3) Defendants’ wage and hour policy documents; and (4) all documents pertaining to Plaintiff available to Defendants.

2.6. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“Dunk/Kullar”).

2.7. On December 20, 2024, the Parties participated in an all-day mediation presided over by Eve Wagner, Esquire. The mediation was successful, and the Parties agreed to resolve all class and PAGA claims in the Action. As part of this Agreement, the Parties agree to stipulate to Plaintiff’s filing of a First Amended Complaint in the Class Action, adding all allegations brought in the PAGA Action, and request for dismissal without prejudice of the PAGA Action, thereby effectively consolidating the two actions for purposes of Settlement (hereinafter, the “Action”). The First Amended Complaint is the operative complaint in the Action (“Operative Complaint”).v In the event the Court does not grant final approval of this Settlement, Plaintiff will be permitted to separately refile the PAGA Action without prejudice and the filing shall relate back to the original filing date of the PAGA Action, or January 25, 2024.

2.8. The Court has not granted class certification.

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

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendant promises to pay \$400,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than \$10,000.00 in addition to any Individual Class Payment and any Individual PAGA Payment Plaintiff is entitled to receive as a Participating Class Member. Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class

Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$140,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and hold Defendants harmless, and indemnify Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendants for such work unless, Defendants materially breach this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,750.00 except for a showing of good cause and as approved by the Court. To the

1 extent the Administration Expenses are less or the Court approves payment less than
2 \$8,750.00, the Administrator will retain the remainder in the Net Settlement Amount.

3 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by
4 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by
5 all Participating Class Members during the Class Period and (b) multiplying the result
6 by each Participating Class Member's Workweeks.

7 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
8 Class Member's Individual Class Payment will be allocated to settlement of
9 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
10 withholding and will be reported on an IRS W-2 Form. The 80% of each
11 Participating Class Member's Individual Class Payment will be allocated to
12 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
13 Non-Wage Portions are not subject to wage withholdings and will be reported
14 on IRS 1099 Forms. Participating Class Members assume full responsibility and
15 liability for any employee taxes owed on their Individual Class Payment.

16 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
17 Class Payments. Non-Participating Class Members will not receive any
18 Individual Class Payments. The Administrator will retain amounts equal to their
19 Individual Class Payments in the Net Settlement Amount for distribution to
20 Participating Class Members on a pro rata basis.

21 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
22 \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00)
23 allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the
24 Individual PAGA Payments.

25 3.2.5.1. The Administrator will calculate each Individual PAGA
26 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
27 of PAGA Penalties (\$10,000.00) by the total number of PAGA Pay Periods
28 worked by all Aggrieved Employees and (b) multiplying the result by each

1 Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full
2 responsibility and liability for any taxes owed on their Individual PAGA
3 Payments.

4 3.2.5.2. If the Court approves PAGA Penalties of less than the
5 amount requested, the Administrator will allocate the remainder to the Net
6 Settlement Amount. The Administrator will report the Individual PAGA
7 Payments on IRS 1099 Forms.

8 **4. SETTLEMENT FUNDING AND PAYMENTS**

9 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of their
10 records to date, Defendants estimate there are 253 Class Members who collectively worked a
11 total of 13,000 Workweeks, and 245 Aggrieved Employees who worked a total of 4,963 PAGA
12 Pay Periods.

13 4.2. Class Data. Not later than seven (7) days after the Court grants Preliminary Approval of
14 the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in
15 the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
16 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
17 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
18 employees who need access to the Class Data to effect and perform under this Agreement.
19 Defendants have a continuing duty to immediately notify Class Counsel if they discover that the
20 Class Data omitted class member identifying information and to provide corrected or updated
21 Class Data as soon as reasonably feasible. Without any extension of the deadline by which
22 Defendants must send the Class Data to the Administrator, the Parties and their counsel will
23 expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related
24 to missing or omitted Class Data.

25 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
26 Amount and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by
27 transmitting the funds to the Administrator in two (2) equal installments, i.e., \$200,000 each
28 installment. The first installment shall be paid twelve (12) months after the full execution of this

1 Agreement or after 61 days from the date the Court grants Final Approval of this Agreement,
2 whichever is later. The second installment shall be paid upon the date six (6) months after the
3 first payment.

4 4.4. Payments from the Gross Settlement Amount. Within seven (7) days after Defendants
5 fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
6 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
7 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
8 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel
9 Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative
10 Service Payment shall not precede disbursement of Individual Class Payments, and the Individual
11 PAGA Payments.

12 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
13 Individual PAGA Payments and send them to the Class Members via First Class U.S.
14 Mail, postage prepaid. The face of each check shall prominently state the date (not less
15 than 180 days after the date of mailing) when the check will be voided. The
16 Administrator will cancel all checks not cashed by the void date. The Administrator will
17 send checks for Individual Class Payments to all Participating Class Members
18 (including those for whom Class Notice was returned undelivered). The Administrator
19 will send checks for Individual PAGA Payments to all Aggrieved Employees including
20 Non-Participating Class Members who qualify as Aggrieved Employees (including
21 those for whom Class Notice was returned undelivered). The Administrator may send
22 Participating Class Members a single check combining the Individual Class Payment
23 and the Individual PAGA Payment. Before mailing any checks, the Settlement
24 Administrator must update the recipients' mailing addresses using the National Change
25 of Address Database.

26 4.4.2. The Administrator must conduct a Class Member Address Search for all other
27 Class Members whose checks are returned undelivered without USPS forwarding
28 address. Within seven (7) days of receiving a returned check the Administrator must re-

1 mail checks to the USPS forwarding address provided or to an address ascertained
2 through the Class Member Address Search. The Administrator need not take further
3 steps to deliver checks to Class Members whose re-mailed checks are returned as
4 undelivered. The Administrator shall promptly send a replacement check to any Class
5 Member whose original check was lost or misplaced, requested by the Class Member
6 prior to the void date.

7 4.4.3. For any Class Member whose Individual Class Payment check or Individual
8 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
9 shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid
10 at Work, 180 Montgomery St., Suite 600, San Francisco, California 94104, for use in
11 the County of Orange.

12 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
13 not obligate Defendants to confer any additional benefits or make any additional
14 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
15 specified in this Agreement.

16 **5. RELEASE OF CLAIMS**

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

21 5.1. Plaintiff's Release. Plaintiff and her former and present spouses, representatives, agents,
22 attorneys, heirs, administrators, successors and assigns generally release and discharge Released
23 Parties from all claims, transactions or occurrences, including, but not limited to: (a) all claims
24 that were, or reasonably could have been, alleged based on the facts contained in the Operative
25 Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on
26 facts contained in the Operative Complaint and Plaintiff's PAGA Notice. ("Plaintiff's Release.")
27 Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any
28 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,

workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquishes the provisions, rights and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2. Release by Participating Class Members: For the duration of the Class Period, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint including: (1) all claims for failure to pay overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods or compensation in lieu thereof; (4) all claims for failure to provide rest periods, or compensation in lieu thereof (5) all claims for the failure to pay all wages due upon separation from employment; (6) all claims for failure to provide accurate wage statements; (7) all claims for failure to timely pay wages during employment; (8) all claims for failure to indemnify for business expenses; (9) all claims for failure to remit payment for all vested vacation hours; and (10) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint.

5.3. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of

the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

5.5. Mutual Release. Plaintiff and Defendants, and each of them, waive any and all claims for fees, costs, indemnity or contribution against Plaintiff, any Class Member, Plaintiff's Counsel in the Actions, Defendants, Defendants' Counsel in the Actions other than as provided herein.

6. MOTION FOR PRELIMINARY APPROVAL

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

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

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

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

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

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

24 **7. SETTLEMENT ADMINISTRATION**

25 7.1. Selection of Administrator. Plaintiff has selected Phoenix to serve as the Administrator
26 and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement
27 and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of
28 Administration Expenses. The Parties and their Counsel represent that they have no interest or

relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences in administering settlements.

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

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

7.4. Notice to Class Members

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

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

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

Members whose Class Notice is returned by the USPS a second time.

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

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

7.5. Requests for Exclusion (Opt-Outs).

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

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

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

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

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

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

shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement

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

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

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

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

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

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

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

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

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

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

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

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendants estimate that, as of the date of this Settlement Agreement, (1) there are 253 Class Members and 13,000 total Workweeks during the Class Period and (2) there are 245 Aggrieved Employees who worked 4,963 Pay Periods during the PAGA Period.

8.1. Increase in Workweeks. Defendants represent that there are no more than 13,000 Workweeks worked by Class Members during the Class Period. In the event the number of Workweeks worked by Class Members during the Class Period increases by more than 5%, or 650 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the Workweeks in excess of 13,650 multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$400,000.00) by 13,000. The Parties agree that the Workweek Value and the settlement amount to \$30.77 per Workweek (\$400,000.00 / 13,000 Workweeks). Thus, for example, should there be 15,000 Workweeks worked by Class Members during the Class Period, then the Gross Settlement Amount shall be increased by \$41,539.50. $[(15,000 \text{ Workweeks} - 13,650 \text{ Workweeks}) \times \$30.77]$

per Workweek.)

9. DEFENDANTS' RIGHT TO WITHDRAW

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel. Late elections will have no effect.

10. MOTION FOR FINAL APPROVAL

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

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

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class

Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

1 **11. AMENDED JUDGMENT**

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

4 **12. ADDITIONAL PROVISIONS**

5 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other
6 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
7 Nothing in this Agreement is intended or should be construed as an admission by Defendants
8 that any of the allegations in the Operative Complaint have merit or that Defendants have any
9 liability for any claims asserted; nor should it be intended or construed as an admission by
10 Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class
11 certification and representative treatment is for purposes of this Settlement only. If, for any reason
12 the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants
13 reserve the right to contest certification of any class for any reasons, and Defendants reserve all
14 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
15 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
16 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
17 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
18 Settlement and this Agreement). Payment of wages under this Settlement neither extends nor
19 alter the Class Members' period of employment with Defendant for any purpose.

20 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and
21 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
22 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
23 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
24 or indirectly, specifically or generally, to any person, corporation, association, government
25 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
26 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
27 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
28 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal

1 government agency. Each Party agrees to immediately notify each other Party of any judicial or
2 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
3 Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any
4 conversation or other communication, before the filing of the Motion for Preliminary Approval,
5 any with third party regarding this Agreement or the matters giving rise to this Agreement except
6 to respond only that “the matter was resolved,” or words to that effect. This paragraph does not
7 restrict Class Counsel’s communications with Class Members in accordance with Class
8 Counsel’s ethical obligations owed to Class Members.

9 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
10 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
11 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s
12 ability to communicate with Class Members in accordance with Class Counsel’s ethical
13 obligations owed to Class Members.

14 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
15 together with its attached exhibits shall constitute the entire agreement between the Parties
16 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
17 inducements made to or by any Party.

18 12.5. Advice of Counsel. The Parties to this Agreement are represented by competent counsel,
19 and they have had an opportunity to consult with counsel prior to its execution. The Parties to
20 this Agreement agree that it reflects their good faith compromise of the claims raised in the
21 Action, based upon their assessment of the mutual risks and costs of further litigation and the
22 assessments of their respective counsel.

23 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
24 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate
25 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
26 its terms, and to execute any other documents reasonably required to effectuate the terms of this
27 Agreement including any amendments to this Agreement.
28

1 12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their
2 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
3 Settlement Agreement, submitting supplemental evidence and supplementing points and
4 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
5 or content of any document necessary to implement the Settlement, or on any modification of the
6 Agreement that may become necessary to implement the Settlement, the Parties will seek the
7 assistance of a mediator and/or the Court for resolution.

8 12.8. No Prior Assignments. The Parties separately represent and warrant that they have not
9 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
10 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
11 action, or right released and discharged by the Party in this Settlement.

12 12.9. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
13 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
14 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
15 Part 10, as amended) or otherwise.

16 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended,
17 modified, changed, or waived only by an express written instrument signed or agreed to by all
18 Parties or their representatives, and approved by the Court. Plaintiff and Defendant expressly
19 agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any
20 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any
21 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
22 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
23 the use of signatures previously provided by the Parties.

24 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
25 the benefit of, the successors of each of the Parties.

26 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
27 governed by and interpreted according to the internal laws of the State of California, without
28 regard to conflict of law principles.

1 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
2 this Agreement. This Agreement will not be construed against any Party on the basis that the
3 Party was the drafter or participated in the drafting.

4 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
5 during Action and in this Agreement relating to the confidentiality of information shall survive
6 the execution of this Agreement

7 12.15. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
8 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants
9 in connection with the mediation, other settlement negotiations, or in connection with the
10 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
11 be used in any way that violates any existing contractual agreement, statute, or rule of court.

12 12.16. Headings. The descriptive heading of any section or paragraph of this Agreement is
13 inserted for convenience of reference only and does not constitute a part of this Agreement.

14 12.17. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
15 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
16 weekend or federal legal holiday, such date or deadline shall be on the first business day
17 thereafter.

18 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts
19 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
20 be accepted as an original. All executed counterparts and each of them will be deemed to be one
21 and the same instrument if counsel for the Parties will exchange between themselves signed
22 counterparts. Any executed counterpart will be admissible in evidence to prove the existence and
23 contents of this Agreement.

24 12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
25 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
26 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
27 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
28 process.

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6 12.20. Severability. In the event that one or more of the provisions contained in this Agreement
7 shall, for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
8 illegality, or unenforceability shall in no way effect any other provision if Defendants' Counsel
9 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
10 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
11 Agreement.

12
13 **IT IS SO AGREED:**

14
15 _____
16 Leah Hernandez
Leah Hernandez (Feb 18, 2025 19:19 PST)

17 Plaintiff, Leah Ruby Hernandez

For Defendant, Osen Irvine, Inc.

18 _____

19 _____

20 For Defendant, Yakiniku by Osen, Inc.

21 _____

22 _____

23 For Defendant, Golden Goose Family, Inc.

24
25 **AGREED AS TO FORM ONLY:**

26
27 Vedang J. Patel

28 David D. Bibiyan
Vedang J. Patel

Haewon Kim

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5 12.20. 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 Defendants' 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, Leah Ruby Hernandez

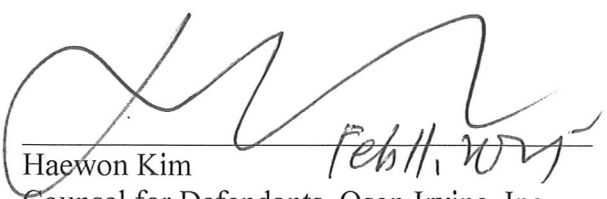
13 
14 _____
15 Feb 11, 2015
16 For Defendant, Osen Irvine, Inc.

17 
18 _____
19 Feb 11, 2015
20 For Defendant, Yakniku by Osen, Inc.

21 
22 _____
23 Feb 11, 2015
24 For Defendant, Golden Goose Family, Inc.

25 **AGREED AS TO FORM ONLY:**

26
27 David D. Bibiyan
28 Vedang J. Patel
Counsel for Plaintiff, Leah Ruby Hernandez

26 
27 Haewon Kim
28 Counsel for Defendants, Osen Irvine, Inc.,
Yakiniku by Osen, Inc., and Golden Goose
Family, Inc.

Counsel for Plaintiff, Leah Ruby Hernandez

Counsel for Defendants, Osen Irvine, Inc.,
Yakiniku by Osen, Inc., and Golden Goose
Family, Inc.