

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

Oliver Acenas v. Organic By Nature, Inc. **Los Angeles County Superior Court, Case No. 24STCV00155**

This Private Attorneys General Act Agreement (“Agreement”) is made and entered into between Oliver Acenas, an individual (acting in his individual capacity and in a representative capacity as a private attorney general on behalf of Aggrieved Employees and the State of California), on the one hand (“Plaintiff”) and Organic By Nature, Inc. (“Organic”) on the other hand (“Defendant”) (Plaintiff and Defendant are collectively referred to herein as the “Parties.”) Capitalized terms used herein shall have the meanings set forth in Section I or elsewhere in this Agreement.

I. DEFINITIONS

The following terms, when used in this Agreement, shall have the following meanings:

1. “Administrator” means Phoenix Class Action Settlement Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
2. “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 approval of this Settlement.
3. “Aggrieved Employees” consist of all hourly and/or non-exempt former and current employees of Organic at any time from January 3, 2023 through December 31, 2024. The number of Aggrieved Employees, including Plaintiff, is estimated to be Hundred-Six (106) and the number of pay periods is estimated to be Three Thousand Eight-Hundred (3,800) during the PAGA Period.
4. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for the current mailing addresses for the Aggrieved Employees 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 Aggrieved Employees.
5. “Aggrieved Employee Data” means identifying information for the Aggrieved Employees in Defendant’s possession, including the names, last-known mailing addresses, Social Security numbers, and number of PAGA Pay Periods for the Aggrieved Employees.
6. “Agreement” means the Settlement Agreement of the PAGA Action as memorialized in this Agreement.
7. “Approval Order” means the proposed Court Order Granting Approval of the PAGA Settlement.
8. “Court” means the Superior Court of California for the County of Los Angeles.

9. “Defendant” means Organic by Nature, Inc.
10. “Defendant’s counsel” means Roger M. Mansukhani, Esq., Bimali Walgampaya, and Jessica Patel, Esq. of Gordon Rees Scully Mansukhani, LLP.
11. “Effective Date” means the date on which the Court approves this Agreement and dismisses the Action, with prejudice.
12. “Gross Settlement Amount” is the non-reversionary sum of One Hundred and Seventy- Five Thousand Dollars and Zero Cents (\$175,00.00), which represents the total amount payable under this Agreement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment to the Settlement Administrator, and payment of Plaintiff’s attorneys’ fees and costs.
13. “Individual PAGA Payment” means the Aggrieved Employees’ pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
14. “Judgment” means the final approval Order and judgment entered by the Court in the PAGA Action.
15. “LWDA” means the California Labor and Workforce Development Agency.
16. “LWDA Payment” means the 75% of the PAGA Penalties paid to the LWDA pursuant to Labor Code section 2699, subd. (i).
17. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Maximum Agreement Amount: (a) Plaintiff’s attorneys’ fees up to 33.3% of the Maximum Agreement Amount, currently estimated at Fifty-Eight Thousand Three Hundred and Thirty-Three and Thirty-Three Cents (\$58,333.33); (b) Plaintiff’s costs of suit, not to exceed Twenty Thousand Dollars (\$20,000.00); and (c) the cost of the Settlement Administrator, up to Four Thousand Dollars and Zero Cents (\$4,000.00).
18. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*
19. “PAGA Action” means the matter entitled *Oliver Acenas vs. Organic by Nature, Inc., et al.*, Superior Court of the State of California, County of Los Angeles Case No. 24STCV00155, and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated October 18 2023.
20. “PAGA Complaint” means the Representative Action Complaint entitled

21. *Oliver Acenas v. Organic By Nature, Inc. et al.*, Superior Court of the State of California, County of Los Angeles, Case No. 24STCV00155, filed on January 3, 2024.
22. “PAGA Notice” means Plaintiff’s October 18, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
23. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount allocated 25% to the Aggrieved Employees and 75% to the LWDA in settlement of the PAGA Action.
24. “PAGA Period” means the time period of January 3, 2023 through December 31, 2024.
25. “PAGA Released Claims” means any and all claims under PAGA that are pled in the PAGA Action or which could have been pled in the PAGA Action, and all other claims under PAGA that could have been premised on the facts, claims, causes of action, or legal theories in the PAGA Complaint and Plaintiff’s April 14, 2023 LWDA Letter that arose during the PAGA Period, including but not limited to those arising out of California Labor Code sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1182.12-1198, *et seq.*, 2698, 2699, and 2802.
26. “Parties” means Plaintiff Oliver Acenas and Defendant Organic by Nature, Inc.
27. “Plaintiff” means Oliver Acenas, the named plaintiff in the PAGA Action.
28. “Plaintiff’s Counsel” means Justin Lo of Work Lawyers PC.
29. “Released PAGA Claims” means the claims being released by Plaintiff and Plaintiff’s Counsel, and as described in Section IV herein below.
30. “Released Parties” means Defendant and any of Defendant’s present, former, and future owners, parents, subsidiaries, affiliates, and joint ventures, and all of Defendant’s present, former, and future shareholders, partners, officers, directors, members, managers, employees, agents, servants, registered representatives, attorneys, accountants, insurers, legal representatives, successors, and assigns, including but not limited to and any other persons acting by, through, under, or in concert with and of them (and including their respective pension, profit sharing, savings, health, and other employee benefit plans of any nature, the successors of such plans, and those plans’ respective current or former trustees and administrators, agents, employees, and fiduciaries). All payment obligations set forth in this Agreement shall be the sole responsibility of Defendant.
31. “Settlement” means the disposition of the PAGA Action effected by this Agreement and the Approval Order.

II. RECITALS

1. On October 18, 2023, Plaintiff filed the PAGA Notice with the LWDA, and served the PAGA Notice on Defendant, asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described in the PAGA Action.

2. On January 3, 2024, Plaintiff and his counsel filed the PAGA Complaint. In the PAGA Complaint, Plaintiff alleged a single cause of action seeking imposition of civil penalties under PAGA based upon Defendant's alleged failure to: (1) Pay for All Hours Worked; (2) Provide a Minimum Wage; (3) Provide Lawful Meal and Rest Periods; (4) Provide Accurate and Itemized Wage Statements; (5) Timely Pay All Wages Owed, Including Upon Separation of Employment; and (6) Reimburse Business Expenses.

3. On October 25, 2024, the Parties participated in mediation with professional neutral, Kelly Knight, Esq., an experienced and reputable wage and hour and PAGA action mediator. At the conclusion of the mediation, the Parties reached an agreement for resolution to fully and finally resolve the PAGA Action as to Plaintiff and the Aggrieved Employees, which was memorialized in a Memorandum of Understanding, which this Agreement now supersedes in full.

4. Plaintiff, Plaintiff's Counsel, Defendant, and Defendant's Counsel have concluded that it is desirable that the PAGA claims asserted in the PAGA Action be settled in a manner and upon such terms and conditions set forth in this Agreement order to avoid further expense, inconvenience, and distraction of further legal proceedings, and the risk of an adverse outcome that each of the Parties potentially face. Plaintiff, Plaintiff's Counsel, Defendant, and Defendant's Counsel are of the opinion that this Agreement, including the consideration and terms set forth herein are fair, reasonable, and adequate in light of all known facts and circumstances.

5. Contemporaneous with the negotiation of this Agreement, Plaintiff separately negotiated terms of settlement of his own personal claims against Defendant. The Settlement Agreement pertaining to Plaintiff's individual claims, including a general release of all claims Plaintiff has or may have against Defendant, is a separate document that is being executed contemporaneously with this PAGA Settlement Agreement.

III. MONETARY TERMS OF SETTLEMENT

1. **Gross Settlement Amount.** Defendant promises to pay One Hundred and Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00), and no more, as the Gross Settlement Amount. The Gross Settlement Amount shall cover, resolve, and fully satisfy any and all amounts owed to Plaintiff, the Aggrieved Employees, the State of California, and Plaintiff's Counsel, including all amounts allocated to attorneys' fees and costs, in settlement of all Released Claims. The Parties agree that there are no circumstances that would require Defendant to pay any amount greater than the Gross Settlement Amount in connection with this Agreement unless the escalator clause in Paragraph 3 below is invoked. In the event that this Agreement is canceled, rescinded, terminated, voided or nullified, or if for any reason the Effective Date does not occur, however that may occur as permitted herein, or the Settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall have no obligation to pay any of the Gross Settlement Amount and the Parties' respective positions shall

be restored to positions prior to the settlement. Further, in that event, nothing in this Agreement, the negotiations leading to this settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.

2. **Payments from the Gross Settlement Amount.** The Gross Settlement Amount shall be paid by Defendant to the Administrator as follows: Defendant shall pay no more than \$30,000.00 on April 25, 2025 to the PAGA Administrator. The remaining balance of \$145,000.00 shall be paid to the PAGA Administrator no later than October 15, 2025. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

- a. To Plaintiff's Counsel: A Plaintiff's Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$58,333.33 and PAGA Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or Plaintiff's Counsel will file an application or motion for approval of Plaintiff's Counsel Fees Payment and Plaintiff's Costs Payment. If the Court approves a Plaintiff's Counsel Fees Payment and/or a Plaintiff's Costs Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Plaintiff's Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Plaintiff's Counsel Fees Payment and/or Plaintiff's Costs Payment. The Administrator will pay the Plaintiff's Counsel Fees Payment and Plaintiff's Costs Payment using one or more IRS 1099 Forms. Plaintiff's Counsel assumes full responsibility and liability for taxes owed on the Plaintiff's Counsel Fees Payment and the Plaintiff's Costs Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.
- b. To the Administrator: An Administrator Expenses Payment not to exceed \$4,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$4,000.00, the Administrator will allocate the remainder to the Net Settlement Amount.
- c. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of at least \$92,666.67 to be paid from the Gross Settlement Amount, with 75% (\$69,500.00) allocated to the LWDA PAGA Payment and 25% (\$23,166.66) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all

Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payments.

- ii. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- d. Failure to timely tender payment to the Settlement Administrator will be deemed a breach of this Agreement. In the event of any breach of the Agreement, the unpaid amounts and all other accrued obligations shall automatically become immediately due and payable within thirty (30) calendar days. The Parties agree the Court shall retain jurisdiction to enforce this settlement agreement pursuant to Code of Civil Procedure § 664.6.

3. **Escalator Clause.** The Parties agree that the following Escalator Clause will not take effect unless, if, as of the time of the approval of the settlement, the total pay periods for Aggrieved Employees is more than 15% of the estimated total pay periods of 3,800 (which is 4,370 pay periods or more):

As stated above, for the period from January 3, 2023 through the date of mediation, Defendant represents, and Plaintiff has confirmed, that the number of relevant pay periods, based on their review of data and records, was estimated to be Three Thousand Eight Hundred, and that the total number of Aggrieved Employees was estimated to be One Hundred and Six (106).

If the actual number of pay periods increases by fifteen percent (15%) or more through the date of Settlement approval, Defendant shall either (1) increase the Global Settlement Amount on a proportional basis, or (2) back the PAGA release date up to end on the date the number of pay periods is 4,370 or less.

In the event the number of pay periods worked increases by more than 15% of the estimated total, or 4,370 pay periods worked or greater, and Defendant elects to increase the Maximum Settlement Amount on a proportional basis, then the Maximum Settlement Amount shall be increased proportionally by the pay periods in excess of 4,370 multiplied by the pay period value. The pay period's value shall be calculated by dividing the Global Settlement Amount by 3,800. The Parties agree that the pay period value amounts to \$46.05 per pay period (\$175,000.00/3,800 pay periods). Thus, for example, should there be 4,371 pay periods in the PAGA Period, then the Maximum Settlement Amount shall be increased by \$46.05 (4,371 pay periods – 4,370 pay periods x \$46.05).

IV. **LIMITATION ON USE OF THIS SETTLEMENT**

1. **No Admission.** Defendant has denied and continues to deny all claims as to liability, damages, liquidated damages, penalties, interest, fees, restitution, injunctive relief, and all other forms of relief asserted in the PAGA Action. It is understood and agreed by the Parties that this Agreement is a compromise and settlement of all disputed claims, and that the promises and payment in consideration of this Agreement shall not be construed to be an admission of any

liability or obligation whatsoever by Defendant or Released Parties to any other party or to any other person whomsoever. Defendant has agreed to resolve the asserted PAGA claims in the PAGA Action via this Agreement, but to the extent this Agreement is deemed void or the Court does not enter an order granting this Agreement, Defendant does not waive, and is expressly reserving, all rights to challenge all such claims and allegations in the PAGA Action upon all procedural and factual grounds, including, without limitation, the ability to challenge representative or collective treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

2. **Non-Evidentiary Use.** This Agreement is made for the sole purpose of settling the PAGA claims asserted in the PAGA Action and may only be used as evidence of the resolution detailed in this Agreement. However, neither this Agreement, nor any of its terms, any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be offered or used as evidence by any of the Parties, or their respective counsel in the PAGA Action or in any other action or proceeding, including to establish any liability or admission on the part of Defendant or any Released Parties, or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendant or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. If the Court does not enter an order approving this Agreement, this Agreement shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms, and entry of this Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable. Defendant specifically retains the right to defend, on the merits, against any non-settled claims brought by any Aggrieved Employees.

3. **Nullification.** If the Court should for any reason fail to approve this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidity of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties subsequently agree in writing that the remaining provisions shall remain in full force and effect. Material terms of this Agreement include: the definition of Aggrieved Employees; the definition of Effective Date; the definition of PAGA Release Period; the definition of Released Claims; the definition of Released Parties; the definition of Net Settlement Fund; the requirement for entry of an order by the Court approving this Agreement and dismissing the PAGA Complaint, with prejudice. The following terms are not material to this Agreement: Plaintiff's Counsel Payment; the amount of the Settlement Administration Fee; the allocation within the Net Settlement Fund.

V. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and Plaintiff's Counsel will release claims against all Released Parties as follows:

1. **Plaintiff's Release.** Plaintiff releases and discharges Released Parties from the PAGA Released Claims and all PAGA wage and hour claims that occurred during the PAGA Period, including all claims that were, or reasonably could have been alleged, based on the facts contained in the PAGA Complaint and the PAGA Notice ("Plaintiff's PAGA Release"). Plaintiff's PAGA Release does not extend to any claims or actions to enforce this Agreement, any claims released in Plaintiff's separate individual settlement agreement for non-wage and hour claims [as described in Paragraph IV(a)(i) herein below], or to any 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 PAGA 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 PAGA Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

2. **Release by Aggrieved Employees.** Upon complete funding of the Gross Settlement Amount, Plaintiff, the LWDA, all Aggrieved Employees, and the State of California shall fully release and forever discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, as defined herein, from the PAGA Released Claims and any and all PAGA claims which arose during the PAGA Period (defined above), seeking civil penalties and any other remedies available under California Labor Code sections 2698, *et seq.*, including attorneys' fees and costs, that were described in the notice of alleged PAGA violations sent by Plaintiff to the LWDA, and alleged or could have been alleged in the Operative Complaint, including but not limited to California Labor Code sections 201, 201.3, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 218.5, 218.6, 510, 512, 558, 1174, 1174.5, 1182.12-1198, *et seq.*, 1194, 1197, 2698, 2699, and 2802, and all applicable IWC Wage Orders as to the above claims. ("Released Claims"). The release of the Released Claims shall be effective as to the PAGA Period (defined above).

3. Defendant is fully discharged of its obligations to the Aggrieved Employees to whom they will pay Individual PAGA Payments through the mailing of a check by the Administrator, regardless of whether such checks are actually received and/or negotiated by the Aggrieved Employees.

4. Plaintiff and the State of California shall be deemed to have, and by operation of the Order granting approval of this Agreement, shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the PAGA Released Claims and Released Claims that arose during the PAGA Period. As a result of this release, Aggrieved Employees will be unable to bring a claim under or recover in any other claim brought under the PAGA for any violations of the Released Claims that took place during the PAGA Period.

VI. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. Plaintiff and Plaintiff's counsel agree to prepare all papers necessary to obtain the Court's Approval Order, including all moving papers and supporting evidence and will provide them to Defendant's counsel for review prior to their filing.

1. **Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2), including: (i) a draft [Proposed] Order Granting Approval of PAGA Settlement; (ii) 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 Aggrieved Employee 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 Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel’s firm attesting to its timely transmission to the LWDA of all necessary PAGA documents [initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint [Labor Code section 2699, subd. (l)(1)], this Agreement [Labor Code section 2699, subd. (l)(2); (iv) a [Proposed] Judgment consistent with the terms of this Agreement and the [Proposed] Order Granting Approval of PAGA Settlement; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator.

2. **Responsibilities of Plaintiff’s Counsel.** Plaintiff’s Counsel is responsible for expeditiously finalizing and filing the motion for PAGA approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. Plaintiff’s Counsel is responsible for delivering the Court’s Approval Order to the Administrator.

3. **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, Plaintiff’s Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, Plaintiff’s Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns. Should the Court not grant approval of the payment of this Settlement as described in this Agreement or decline to dismiss the PAGA Complaint, with prejudice, this Agreement shall be null and void and have no further effect, and all sums paid by Defendant, if any, shall be promptly returned to it.

VII. ADMINISTRATION OF SETTLEMENT

1. **Selection of Administrator.** The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administration Solutions agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of 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 administering settlements.

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 to state and federal tax authorities.

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.

4. **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.

5. **Provision of Information for Aggrieved Employees.** Within 15 business days of the Effective Date, Defendant will in good faith compile from its records a list of Aggrieved Employees, formatted as a Microsoft Excel spreadsheet, that includes each Aggrieved Employee's full name, last known mailing address, last known telephone number, hire date(s), termination date(s) (if applicable), total pay periods worked during the PAGA Period, and Social Security numbers, and provide that spreadsheet to the Administrator.

6. **Explanatory Letter and Individual PAGA Payments.** Within 15 business days of Defendant's provision of Aggrieved Employee roster and data and funding of the Gross Settlement Amount, the Administrator will transmit the Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail, together with a letter explaining the terms of settlement and calculation of the Individual PAGA Payment, to be prepared and approved by the Parties.

7. **Undeliverable Notices.** The Administrator shall make best efforts to deliver the Individual PAGA Payment to each Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace or other search using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing.

a. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the California Department of Industrial Relations – Unclaimed Wage Fund in the names of the Aggrieved Employees to whom the checks were issued.

8. **Tax Treatment.** All Individual PAGA Payments made under this Agreement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Agreement.

9. **Accounting.** Within five (5) business days after mailing the Individual PAGA Payments and the additional payments, the Administrator will provide an accounting under oath to Plaintiff's Counsel and Defendant's counsel of the amounts paid from the Settlement. Upon reasonable request, the Administrator will provide an accounting under oath to Plaintiff's Counsel and Defendant's counsel of the amounts paid as Individual PAGA Payments, LWDA Payment, Plaintiff's Counsel Fees Payment and Plaintiff's Counsel Costs Payment.

VII. MISCELLANEOUS PROVISIONS

1. **Authorization to Enter into Agreement.** Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement, to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each

other and use their best efforts to effect the implementation of the Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Court to resolve such disagreement.

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

3. **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party, except that Plaintiff and Defendant have concurrently entered into an individual general release agreement through which Plaintiff shall release any and all claims against the Released Parties, with a waiver of his rights under California Civil Code section 1542, for additional consideration.

4. **Drafting.** The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Agreement for purposes of having terms construed against that Party.

5. **No Admission.** Nothing in this Agreement shall be construed to be an admission by Plaintiff that her claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, the Aggrieved Employees or any other person, and Defendant specifically disclaim any such liability or wrongdoing. The Parties have entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

6. **Successors.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

7. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, mediator fees and other fees incurred in connection with this Agreement and the PAGA Action, except as specifically set forth in Paragraph III(2)(a) hereinabove.

8. **Governing Law.** This Agreement shall be construed under and governed by the laws of the State of California. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Agreement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Agreement, it shall be brought in the State of California.

9. **Amendment or Modification.** This Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

10. **Execution and Counterparts.** This Agreement is subject to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

11. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

- a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Agreement.
- b. Plaintiff acknowledges that he has read this Agreement, that he fully understands his rights, privileges and duties under the Agreement, and enters into this Agreement freely and voluntarily. Plaintiff further acknowledges that she had the opportunity to consult with her attorneys to explain the terms of this Agreement and the consequences of signing this Agreement.

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

13. **Use and Return of Aggrieved Employee Data.** Information provided to Plaintiff's Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to Plaintiff's Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff and Plaintiff's Counsel shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to Plaintiff's Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

14. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Agreement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement.

15. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable.

16. **Severability.** If any term or provision of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will continue to be valid and will be

performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

17. **Waiver.** No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

18. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

19. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

20. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and this Agreement has been executed with the consent and advice of counsel and reviewed in full.

21. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement.

22. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

23. **Confidentiality.** To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement. This provision does not apply to public court filings, the notice of settlement that shall be sent to the Aggrieved Employees by the Administrator, or for the limited purposed of allowing Plaintiff's Counsel to prove adequacy as counsel in other unrelated actions by referring to any information in the public record regarding the Settlement for such purposes.

24. **No Press Release or Publicity Regarding the Terms of the Settlement.** Plaintiff and Plaintiff's Counsel, as well as Defendant and Defendant's Counsel, agree that they will not issue any media or press release, initiate any contact with the media or the press, respond to any media or press inquiry, or have any communications with the media or the press about the fact,

amount, or terms of this Agreement, except to (i) Aggrieved Employees, but only upon inquiry, and (ii) the Court and the LWDA, but only as necessary to obtain Court approval of the Settlement.

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

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

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

28. **No Reliance on Representations.** The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other Parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Agreement, accept and agree to the provisions contained in this Agreement and hereby execute it voluntarily and with full understanding of its consequences.

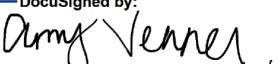
Dated: 12/13/2024, 2024

Oliver Acenas (Plaintiff)

Signed by:

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Oliver Acenas

Dated: December 16, 2024 4:37 PM CST Organic by Nature, Inc. (Defendant)

DocuSigned by:

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 By: Chief Executive Officer