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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

ZOILA GARCIA and CARLOS A. ORELLANA,
individually, and on behalf of all others similarly
situated, and on behalf of other aggrieved
employees pursuant to the California Private
Attorney General Act;

Plaintiffs,

vs.

BAY AREA HERBS & SPECIALTIES, LLC, a
limited liability company; and DOES 1 through
10, inclusive,

Defendants

Case No.: 24-CIV-03224

Assigned for All Purposes to:
Hon. Nancy L. Fineman, Dept. 4, Courtroom G

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Complaint Filed: May 24, 2024
Trial Date: None Set

1 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE**

2 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between
3 Plaintiffs Zoila Garcia and Carlos A. Orellana (“Plaintiff”) and Defendant Bay Area Herbs & Specialties
4 (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually
5 as “Party.”

6
7 **1. DEFINITIONS.**

- 8 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against
9 Defendant captioned *Zoila Garcia and Carlos A. Orellana, individually, and on*
10 *behalf of all others similarly situated, and on behalf of other aggrieved employees*
11 *pursuant to the California Private Attorney General Act vs. Bay Area Herbs &*
12 *Specialties, LLC, a California limited liability company; and DOES 1 through*
13 *10, inclusive*, Case No. 24-CIV-03224 initiated on May 24, 2024, and pending in
14 Superior Court of the State of California, County of San Mateo.
- 15 1.2. “Administrator” or “Settlement Administrator” means Phoenix Class Action Administration
16 (“Phoenix”), the neutral entity the Parties have agreed to appoint to administer the
17 Settlement.
- 18 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from
19 the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
20 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
21 Preliminary Approval of the Settlement.
- 22 1.4. “Aggrieved Employee” means all persons who worked for Defendant in California as hourly,
23 non-exempt employees at any time during the PAGA Period.
- 24 1.5. “Class” or “Class Members” means all persons who worked for Defendant in
25 California as hourly, non-exempt employees at any time during the Class Period.
- 26 1.6. “Class Counsel” means THE SENTINEL FIRM, APC.
- 27 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the
28 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 Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

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 ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, 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 period of May 24, 2020 through February 7, 2025 or as modified pursuant to Paragraph 8 of the Agreement, whichever is earliest.

1.13. “Class Representative” means the named Plaintiffs Zoila Garcia and Carlos A. Orellana in the operative complaint in the Action seeking Court approval to serve as a Class Representative for settlement purposes only.

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 San Mateo.

1.16. “Defendant” means Bay Area Herbs & Specialties, LLC.

1.17. “Defense Counsel” means RUKIN HYLAND & RIGGIN LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (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 latest of the following occurrences: (a) if

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

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

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

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval
of the Settlement.

1.22. “Gross Settlement Amount” means **Three Hundred Fifty Thousand Dollars and Zero
Cents (\$350,000.00)** which is the total amount Defendant agrees to pay under the Settlement
except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay
Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class
Counsel Fees, Class Counsel Expenses, the Class Representative Service Payment and the
Administrator’s Expenses.

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

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

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

1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
entitled to receive penalty payments, under Labor Code § 2699(i).

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under
Labor Code § 2699(m).

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 the 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.

1.31. “PAGA Period” means the period from May 21, 2023 to February 7, 2025 or as modified pursuant to Paragraph 8 of the Agreement, whichever is earliest.

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

1.33. “PAGA Notice” means Plaintiff Garcia’s May 21, 2024 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a) and Plaintiff Orellana’s October 8, 2024 letter to Defendant and the LWDA.

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which will be \$20,000.00, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) 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 Zoila Garcia and Carlos A. Orellana, the named plaintiffs in the Action.

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

1.38. “Released Class Claims” means the claims being released by all Participating Class Members as described in Paragraph 5.2 below.

1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.40. “Released Parties” means: Defendant Bay Area Herbs & Specialties, LLC, and Defendant’s respective agents, officers, employees, directors, owners, subsidiaries, DBA’s, affiliates and

parent companies.

1.41. “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.

1.42. “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or 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 14 calendar days beyond the Response Deadline has expired to submit Requests for Exclusion from the Settlement, Objections to the Settlement, or to dispute the Workweeks allocated to them as a part of the Settlement.

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

1.44. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

2.1. On May 21, 2024, Plaintiff Garcia commenced this Action by filing a Complaint in San Mateo Superior Court alleging causes of action against Defendant for: (1) Violation of Labor Code §§ 204, 1194, 1194.2, 1197 (Failure to Pay Minimum Wages); (2) Violation of Labor Code §§ 1194, 1198 (Failure to Pay Overtime Compensation); (3) Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods); (4) Violation of Labor Code § 226.7, (Failure to Authorize and Permit Rest Breaks); (5) Violation of Labor Code § 2802 (Failure to Indemnify Necessary Business Expenses); (6) Violation of Labor Code §§ 201-203 (Failure to Timely Pay Final Wages at Termination); and (7) Violation of Labor Code § 226 (Failure to Provide Accurate Itemized Wage Statements); (8) Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair Business Practices). On July 26, 2024, Plaintiff Garcia filed a First Amended Complaint adding a cause of action for Civil Penalties Under PAGA [Cal. Lab. Code §§ 2699, et seq.]. On December 30, 2024, a Second Amended Complaint was filed which added Plaintiff Orellana to the Action as a second named Class and PAGA Representative. The Second Amended Complaint is the operative complaint in the Action

(the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint and in the PAGA Notice, denies any failure to comply with the laws identified in in the Operative Complaint and/or the PAGA Notice, and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff Garcia gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on May 21, 2024 and Plaintiff Orellana gave timely written notice to Defendant and the LWDA by sending a PAGA notice on October 8, 2024

2.3. On May 22, 2025, the Parties participated in an all-day mediation presided over by Michael Ludwig, Esq. However, the Parties were unable to settle the matter at mediation. Subsequently and following additional efforts by the mediator, the Parties were eventually able to subsequently reach an agreement to settle the Action.

2.4. Prior to and following the mediation, Plaintiffs obtained, through informal discovery, documents, data, and information necessary to evaluate the claims in the Action, including an appropriate sampling of pay and time records for the Class. Plaintiffs’ investigation was sufficient to satisfy the criteria for Court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (“*Dunk/Kullar*”).

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending class 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 below, Defendant promises to pay a maximum of **\$350,000.00** as the Gross Settlement Amount, and to separately pay any and all employer-side payroll taxes owed on the Wage Portion of each Individual Class Payment. Defendant has 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 Defendant.

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

1 Approval:

2 3.2.1. To Plaintiffs: Class Representative Service Payments to the each Class Representative of
3 not more than \$7,500.00, in addition to any Individual Class Payment and any Individual PAGA
4 Payment each Class Representative is entitled to receive as a Participating Class Member. Defendant
5 will not oppose Plaintiffs' requests for Class Representative Service Payments that do not exceed
6 this amount. Plaintiffs will seek Court approval for any Class Representative Service Payments in
7 the Final Approval Motion. If the Court approves Class Representative Service Payments less than
8 the amount requested, the Administrator will retain the remainder in the Net Settlement Amount.
9 The Administrator will pay the Class Representative Service Payment using the appropriate IRS
10 Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class
11 Representative Service Payments and agree to indemnify Defendant and hold it harmless for any
12 responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential
13 damages arising from Plaintiffs' obligations to pay taxes owed on the Class Representative Service
14 Payment.

15 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross
16 Settlement Amount and Class Counsel Litigation Expenses Payment of not more than \$25,000.00.
17 Defendant will not oppose requests for these payments. Plaintiffs will seek Court approval for the
18 Class Counsel Fees Payment and the Class Litigation Expenses Payment in the Final Approval
19 Motion. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
20 Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to
21 the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other
22 Plaintiffs' Counsel arising from any claim as to any portion of the Class Counsel Fee Payment and/or
23 Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees
24 Payment and Class Counsel Expenses Payment using one or more appropriate IRS-1099 Forms.
25 Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
26 Payment and the Class Counsel Litigation Expenses Payment and agrees to indemnify Defendant
27 and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest
28 or any other actual or potential damages arising from Plaintiffs' obligations to pay taxes owed on

1 these Payments or from any dispute or controversy regarding any division or sharing of any of these
2 Payments.

3 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,950.00 except
4 upon a showing of good cause and as approved by the Court. To the extent the Administration
5 Expenses are less than, or the Court approves payment less than this amount, the Administrator will
6 retain the remainder in the Net Settlement Amount. Phoenix Class Action Administration has been
7 selected as the Administrator, based upon its “not to exceed” bid of \$8,950.00.

8 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a)
9 dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
10 Class Members during the Class Period and (b) multiplying the result by each Participating Class
11 Member’s Workweeks.

12 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
13 Class Member’s Individual Class Payment will be allocated to settlement of
14 wage claims (the “Wage Portion”). The Wage Portion of each Individual
15 Class Payment is subject to tax withholding and will be reported on an IRS
16 W-2 Form. The remaining 80% of each Participating Class Member’s
17 Individual Class Payment will be allocated to settlement of claims for
18 interest and penalties (the “Non-Wage Portion”). The Non-Wage Portion of
19 each Individual Class Payment is not subject to wage withholdings and will
20 be reported on IRS 1099 Forms. Participating Class Members assume full
21 responsibility and liability for any taxes owed on their Individual Class
22 Payments and agree to indemnify Defendant and hold it harmless for any
23 responsibility, liability, claim, complaint, damages, penalties, interest or any
24 other actual or potential damages arising from Participating Class Members’
25 obligations to pay taxes owed on these Payments.

26 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
27 Class Payments. Non-Participating Class Members will not receive any
28 Individual Class Payments. The Administrator will retain amounts equal to

their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000.00) 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 Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payments and agree to indemnify Defendant and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential damages arising from Participating Class Members' obligations to pay taxes owed on these Payments.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. This Settlement is made based on the estimate that number of Workweeks worked by the estimated 415 class members during the Class Period is estimated to be 17,391 and the number of pay periods worked by the estimated 158 Aggrieved Employees is 3,603.

4.2. Class Data. Not later than fourteen (14) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in

confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform required tasks under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as to the Wage Portion of the Gross Settlement Amount by transmitting the funds to the Administrator within 30 days of the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within thirty (30) days after Defendant funds the settlement as provided for in Paragraph 4.3, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, Class Counsel Fees Payment, the Class Counsel Litigation Payment, Class Counsel Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date when the check will be voided, which date shall be one hundred eighty (180) days after the date of mailing. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members

who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b).

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

5. RELEASES OF CLAIMS.

As of the Effective Date of this Settlement, Plaintiffs and the Participating Class Members will release claims against all Released Parties as follows:

5.1. Plaintiffs' Release.

1 5.1.1. Scope of Plaintiffs' Release. Plaintiffs and their respective former and present
2 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
3 assigns generally, release and discharge Released Parties from any and all of the
4 claims, whether known or unknown, suspected or unsuspected, contingent or non-
5 contingent, which now exist, or have existed, upon any theory of law or equity now
6 existing, including, but not limited to, conduct that is negligent, intentional, with or
7 without malice, or a breach of any duty, law or rule, without regard to the subsequent
8 discovery or existence of such different or additional facts. Additionally, Plaintiffs
9 release the Released Parties of all claims, charges, complaints, liens, demands,
10 causes of action, obligations, damages and liabilities, known or suspected, arising
11 from their employment with the Defendant. The released claims include, without
12 limitation: claims under (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C.
13 § 1981; (3) the California Fair Employment and Housing Act; (4) Section 503 of the
14 Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair
15 Labor Standards Act (including the Equal Pay Act); (7) the California and the United
16 States Constitution; (8) the California Labor Code; (9) the Family and Medical
17 Leave Act; (10) the California Family Rights Act; (11) the Worker Adjustment and
18 Retraining Notification Act; (12) the Employee Retirement Income Security Act;
19 (13) the Immigration Reform and Control Act; (14) the California Business and
20 Professions Code, sections 17200, et seq.; (15) the California Government Code; and
21 (16) the California Wage Orders (collectively "Claim" or "Claims") which Plaintiffs
22 now has, owns or holds, or claims to have, own or hold, or which Plaintiffs at any
23 time had, owned or held, or claimed to have, own or hold against any of the Released
24 Parties up to and including, as of the final approval of this Settlement Agreement.
25 (Everything released based on the above as well as everything released as part of the
26 Released Class Claims discussed below will be referred to as "Plaintiffs' Release.")
27 Plaintiffs' Release does not extend to any claims for vested benefits, unemployment
28 benefits, disability benefits, social security benefits, workers' compensation benefits

1 that arose at any time. Plaintiffs acknowledge that Plaintiffs may discover facts or
2 law different from, or in addition to, the facts or law that Plaintiffs now knows or
3 believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and
4 remain effective in all respects, notwithstanding such different or additional facts or
5 Plaintiffs' discovery of them.

6 5.1.2. Release of PAGA Claims: Upon approval by the Court and upon funding of the
7 Gross Settlement Amount, Plaintiffs, as agents and proxies of the LWDA, will
8 release the Released Parties from any and all claims for civil penalties under the
9 California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor
10 Code section 2698, et seq., against the Released Parties for work performed during
11 the PAGA Period and based on or arising out of the alleged violations of the Labor
12 Code sections alleged in Plaintiffs' letters to the LWDA and the Action, or which
13 could have been alleged under the facts plead in Plaintiffs' letters to the LWDA or
14 the Action.

15 5.1.3. Plaintiffs' Waiver of Rights Under California Civil Code § 1542. For purposes of
16 Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights,
17 and benefits, if any, of Section 1542 of the California Civil Code, which reads:

18 **A general release does not extend to claims that the creditor or**
19 **releasing party does not know or suspect to exist in his or her favor**
20 **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.

21 5.2. Release by Participating Class Members: All Participating Class Members, on behalf of
22 themselves and their respective former and present representatives, agents, attorneys, heirs, administrators,
23 successors, and assigns, release the Released Parties from all claims that occurred during the Class Period
24 and were alleged, or reasonably could have been alleged, based on the facts stated in the Operative
25 Complaint ("Released Class Claims") for unpaid overtime, meal period premiums, rest period premiums,
26 unpaid minimum wage, untimely payment of final wages, failure to timely pay wages during employment,
27 non-compliant wage statements, failure to keep requisite payroll records, waiting time penalties,
28 unreimbursed business expenses, and violation of Business and Professions Code §§ 17200, et seq..

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.

6. MOTION FOR PRELIMINARY APPROVAL.

Plaintiffs shall prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approval.

6.1. Plaintiffs' Responsibilities. Plaintiffs 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 § 2699(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; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code § 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), this Agreement (Labor Code § 2699(l)(2)) and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the

1 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
2 Approval to the Administrator.

3 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
4 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense
5 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and
6 in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions
7 Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will
8 expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith,
9 to modify the Agreement and otherwise satisfy the Court's concerns.

10 7. SETTLEMENT ADMINISTRATION.

11 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action
12 Administration ("Phoenix") to serve as the Administrator and verified that, as a condition of appointment,
13 Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
14 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent
15 that they have no interest or relationship, financial or otherwise, with the Administrator other than a
16 professional relationship arising out of prior experiences administering settlements.

17 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
18 Identification Number for purposes of calculating payroll tax withholdings and providing reports state and
19 federal tax authorities.

20 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
21 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.

22 7.4. Notice to Class Members.

23 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator
24 shall notify Class Counsel that the list has been received and state the number of
25 Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in the Class
26 Data.

27 7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen
28 (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 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 three (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 fourteen (14) days beyond the sixty (60) 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 person or by telephone, and 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 fourteen (14) 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 from (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than sixty (60) days after the Administrator mails the Class Notice or as otherwise extended for re-mailed Class Notices as described herein. 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 faxed, emailed, or postmarked by the Response Deadline, subject to extension for remailed Class Notices as described herein.

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

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

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a

1 Non-Participating Class Member and shall not receive an Individual Class Payment
2 or have the right to object to the class action components of the Settlement. Because
3 future PAGA claims are subject to claim preclusion upon entry of the Judgment,
4 Non-Participating Class Members are eligible for an Individual PAGA Payment.

5 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
6 after the Administrator mails the Class Notice, or as otherwise extended for re-mailed Class
7 Notices as described herein, to challenge the number of Workweeks and PAGA Pay Periods
8 (if any) allocated to the Class Member in the Class Notice. The Class Member may
9 challenge the allocation by communicating with the Administrator via fax, email or mail.
10 The Administrator must encourage the challenging Class Member to submit supporting
11 documentation. In the absence of any contrary documentation, the Administrator is entitled
12 to presume that the Workweeks contained in the Class Notice are correct so long as they are
13 consistent with the Class Data. The Administrator's determination of each Class Member's
14 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
15 susceptible to challenge. The Administrator shall promptly provide copies of all challenges
16 to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and
17 the Administrator's determination the challenges.

18 7.7. Objections to Settlement.

19 7.7.1. Only Participating Class Members may object to the class action components of the
20 Settlement and/or this Agreement, including contesting the fairness of the
21 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
22 Counsel Litigation Expenses Payment and/or Class Representative Service
23 Payment.

24 7.7.2. Participating Class Members may send written objections to the Administrator, by
25 fax, email, or mail. In the alternative, Participating Class Members may appear in
26 Court (or hire an attorney to appear in Court) to present verbal objections at the Final
27 Approval Hearing. A Participating Class Member who elects to send a written
28 objection to the Administrator must do so not later than the Response Deadline, or

as otherwise extended for re-mailed Class Notices as described herein.

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

7.7.4. Class Members (whether Participating or Non-Participating) and Aggrieved Employees have no right to object to or intervene in any of the PAGA 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 post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, the Class Notice, the Final Approval and the Judgment on the Administrator's website. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes 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 five (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

1 Individual Class Payments and Individual PAGA Payments (“Weekly Report”).
2 The Weekly Reports must include provide the Administrator’s assessment of the
3 validity of Requests for Exclusion and attach copies of all Requests for Exclusion
4 and objections received.

5 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
6 address and make final decisions consistent with the terms of this Agreement on all
7 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
8 The Administrator’s decision shall be final and not appealable or otherwise
9 susceptible to challenge.

10 7.8.5. Administrator’s Declaration. Not later than fourteen (14) days before the date by
11 which Plaintiffs are required to file the Motion for Final Approval of the Settlement,
12 the Administrator will provide to Class Counsel and Defense Counsel, a signed
13 declaration suitable for filing in Court attesting to its due diligence and compliance
14 with all of its obligations under this Agreement, including, but not limited to, its
15 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
16 Class Notices, attempts to locate Class Members, the total number of Requests for
17 Exclusion from Settlement it received (both valid or invalid), the number of written
18 objections and attach the Exclusion List. The Administrator will supplement its
19 declaration as needed or requested by the Parties and/or the Court. Class Counsel is
20 responsible for filing the Administrator’s declaration(s) in Court.

21 7.8.6. Final Report by Settlement Administrator. Within fourteen (14) days after the
22 Administrator disburses all funds in the Gross Settlement Amount, the Administrator
23 will provide Class Counsel and Defense Counsel with a final report detailing its
24 disbursements by employee identification number only of all payments made under
25 this Agreement. At least fourteen (14) days before any deadline set by the Court, the
26 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
27 signed declaration suitable for filing in Court attesting to its disbursement of all
28 payments required under this Agreement. Class Counsel is responsible for filing the

1 Administrator's declaration in Court.

2 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.**

3 Based on its records, Defendant estimates that the number of Workweeks during the Class Period is
4 estimated to be 17,391. The Parties have stipulated to a 10% escalation of the estimated Workweeks in the
5 final Workweeks' count at the end of the Class Period without any increase to the Gross Settlement Amount.
6 If the number of actual Workweeks during the Class Period exceeds this 10% cushion above the estimated
7 workweek total of 17,391 (i.e., exceeds 19,130 workweeks), Defendant may elect to either (1) purchase the
8 additional workweeks above the 10% cushion (i.e. the weeks above the 19,130 total) at a *pro rata* rate, or
9 (2) cut off the release period as of the date the 10% cushion is exhausted. If Defendant elects Option (1)
10 from the previous sentence, Defendant shall increase the Gross Settlement Amount by a *pro-rata* dollar
11 value equal to the number of Workweeks in excess of 19,130 workweeks. For example, if there is a 1%
12 increase over the 10% cushion, then the GSA increases by 1%. Defendant shall use its best efforts to inform
13 Class Counsel of whether the escalator clause has triggered and if so, which option it intends to select at
14 least three (3) days prior to the date on which a Motion for Preliminary Approval is due to be filed with the
15 Court. Final determination regarding the provisions of this Paragraph will be determined by the
16 Administrator; in the event the provisions of this paragraph are triggered, Defendant must inform Class
17 Counsel and the Administrator of its election to increase the Gross Settlement Amount or to modify the
18 Class Period no later than five (5) days prior to the date on which Class Notice is scheduled to be mailed to
19 Class Members pursuant to Paragraph 7.4.2.

20 **9. RIGHT TO WITHDRAW**

21 If 10% or more of the Settlement Class members elect not to participate in the Settlement by
22 submitting a valid Request for Exclusion, Defendant may, at its election, rescind the Settlement and all
23 actions taken in its furtherance of it will be thereby null and void. The Parties agree that, if Defendant elects
24 to withdraw pursuant to this Paragraph, the Settlement shall be void *ab initio*, have no force or effect
25 whatsoever, and neither Party will have any further obligation to perform under this Agreement; provided,
26 however, Defendant will be responsible for paying all Settlement Administration Expenses incurred to that
27 point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 30
28 calendar days following the Response Deadline.

1 **10. MOTION FOR FINAL APPROVAL**

2 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will
3 file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA
4 settlement under Labor Code § 2699(s)(2), a Proposed Final Approval Order and a proposed Judgment
5 (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense
6 Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
7 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements
8 concerning the Motion for Final Approval.

9 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a
10 Participating Class Member, including the right to file responsive documents in Court no
11 later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
12 accepted by the Court.

13 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval
14 on any material change to the Settlement (including, but not limited to, the scope of release
15 to be granted by Class Members), the Parties will expeditiously work together in good faith
16 to address the Court’s concerns by revising the Agreement as necessary to obtain Final
17 Approval. The Parties agree that changes to the timing of payments or notice periods, or to
18 the contents of the Notice of Settlement, which are requested by the Court do not necessitate
19 an amendment or revision to this Agreement unless such an Amendment is required by the
20 Court.

21 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
22 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes
23 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration
24 matters, and (iii) addressing such post-Judgment matters as are permitted by law.

25 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
26 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
27 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
28 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.

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only.

1 If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment,
2 Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all
3 available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification
4 on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, any papers
5 submitted or filed in connection with the approval of this Agreement, and Parties' willingness to settle the
6 Action will have no bearing on, and will not be admissible in connection with, any litigation (except for
7 proceedings to enforce or effectuate the Settlement and this Agreement).

8 12.2. Court Approval. In the event that the Court fails to approve the settlement notwithstanding
9 the good faith efforts of the Parties pursuant to Paragraph 12.7 of this Agreement, or if the appropriate
10 appellate court fails to approve the settlement, or if the Settlement Agreement is otherwise terminated: (1)
11 the Settlement Agreement shall have no force and effect and the Parties shall be restored to their respective
12 positions prior to entering into it, and no Party shall be bound by any of the terms of the Settlement
13 Agreement; (2) Defendant shall have no obligation to make any payments to the Settlement Class Members,
14 the Settlement Administrator, the LWDA, Plaintiffs or Plaintiffs' counsel; (3) any preliminary approval
15 order, final approval order or judgment, shall be vacated; and (4) the Settlement Agreement and all
16 negotiations, statements, proceedings and data relating thereto shall be deemed confidential mediation
17 settlement communications and not subject to disclosure for any purpose in any proceeding.

18 12.3. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and
19 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they
20 and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to
21 disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or
22 generally, to any person, corporation, association, government agency, or other entity except: (1) to the
23 Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement
24 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
25 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued
26 by a state or federal government agency. Each Party agrees to immediately notify each other Party of any
27 judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel,
28 Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or

1 other communication, before the filing of the Motion for Preliminary Approval, any with third party
2 regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter
3 was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications
4 with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
5 Notwithstanding the foregoing, the settlement is not confidential, and Plaintiffs and/or Plaintiffs’ Counsel
6 shall submit the settlement to the LWDA and the Court for purposes of obtaining preliminary and/or final
7 settlement approval.

8 12.4. No Solicitation. The Parties separately agree that they and their respective counsel and
9 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the
10 Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate
11 with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

12 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
13 together with its attached exhibits shall constitute the entire agreement between the Parties relating to the
14 Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or
15 by any Party.

16 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
17 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action
18 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
19 execute any other documents reasonably required to effectuate the terms of this Agreement including any
20 amendments to this Agreement.

21 12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best
22 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
23 Agreement, submitting supplemental evidence and supplementing points and authorities as requested by
24 the Court. In the event the Parties are unable to agree upon the form or content of any document necessary
25 to implement the Settlement, or on any modification of the Agreement that may become necessary to
26 implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

27 12.8. No Prior Assignments. The Parties separately represent and warrant that they have not
28 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any

1 person or entity and portion of any liability, claim, demand, action, cause of action, or right released and
2 discharged by the Party in this Settlement.

3 12.9. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are
4 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
5 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended)
6 or otherwise.

7 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified,
8 changed, or waived only by an express written instrument signed by all Parties or their representatives, and
9 approved by the Court.

10 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
11 benefit of, the successors of each of the Parties.

12 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
13 governed by and interpreted according to the internal laws of the state of California, without regard to
14 conflict of law principles.

15 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this
16 Agreement. This Agreement will not be construed against any Party on the basis that the Party was the
17 drafter or participated in the drafting.

18 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
19 during Action and in this Agreement relating to the confidentiality of information shall survive the execution
20 of this Agreement.

21 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence
22 Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in
23 connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be
24 used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates
25 any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the
26 Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all
27 Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from
28 Defendant.

12.16. 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.

12.17. 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.

12.18. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Seung L. Yang
seung.yang@thesentinelfirm.com
Tiffany Hyun
tiffany.hyun@thesentinelfirm.com
Jeffrey P. Jackson
jeffrey.jackson@thesentinelfirm.com
THE SENTINEL FIRM, APC
355 S Grand Ave. Suite 1450
Los Angeles, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

To Defendants:

RUKIN HYLAND & RIGGIN LLP
John F. Hyland
jhyland@rukinhyland.com
1939 Harrison Street, Suite 925
Oakland, California 94612
Telephone: (415) 421-1800
Facsimile: (415) 421-1700

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

12.20. 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

1 signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial
2 under CCP section 583.310 for the entire period of this settlement process.

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4 **[SIGNATURES ON NEXT PAGE]**
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1 **IT IS SO AGREED.**

2
3 **Plaintiff & Class Representative:**

4 Dated: ____

By: _____
ZOILA GARCIA

5
6 **Plaintiff & Class Representative:**

7 Dated: 11 / 26 / 2025

By: Carlos Orellana
CARLOS A. ORELLANA

8
9 **Plaintiff's Counsel:**

10 Dated: ____

THE SENTINEL FIRM, APC

11
12 By: _____

13 Seung L. Yang
14 Tiffany Hyun
Jeffrey P. Jackson

Attorneys for Plaintiffs

15 **Defendant:**

16 Dated: ____

BAY AREA HERBS & SPECIALTIES, LLC

17
18 By: _____

Print Name

19
20 _____
Signature

21
22 _____
Title

1 **IT IS SO AGREED.**

2
3 **Plaintiff & Class Representative:**

4 Dated: 12 / 10 / 2025

By: 

ZOILA GARCIA

5
6 **Plaintiff & Class Representative:**

7 Dated: ____

By: _____

CARLOS A. ORELLANA

8
9 **Plaintiff's Counsel:**

10 Dated: 12/10/2025

THE SENTINEL FIRM, APC

11
12 By: 

13 Seung L. Yang
14 Tiffany Hyun
15 Jeffrey P. Jackson

Attorneys for Plaintiffs

16 **Defendant:**

17 Dated: ____

BAY AREA HERBS & SPECIALTIES, LLC

18 By: _____

Print Name

19
20 _____
Signature

21
22 _____
Title

1 **Defendant's Counsel:**

2 Dated: ____

RUKIN HYLAND & RIGGIN LLP

3
4 By: _____
5 John F. Hyland

6 Attorneys for Defendant
7 BAY AREA HERBS & SPECIALTIES, LLC
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