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**STIPULATED SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

**ARTICLE I**

**INTRODUCTION**

It is stipulated and agreed by and among the undersigned Parties, subject to the approval of the Court pursuant to section 382 of the California Code of Civil Procedure, that the Settlement of this action shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in the “Definitions” section or as defined elsewhere in this Stipulated Settlement Agreement and Release of Claims (hereafter “Agreement”).

Plaintiff Kaneisha Kingsbury (“Representative Plaintiff”) and the putative Class Members make this agreement with Defendant Caravan Foods II, Inc. (“Defendant” or “Caravan”). Representative Plaintiff and Defendant collectively are referred to in this Agreement as “the Parties.”

The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and concluded by agreement of Defendant to pay a non-reversionary all-in settlement in the total maximum amount of \$1,250,000.00 (One Million, Two Hundred Fifty Thousand Dollars and Zero Cents) as provided in Section 5.06 below (“Gross Fund Value Amount”) upon the terms and conditions of this Agreement and for the consideration set forth herein, including but not limited to a release of all claims by Representative Plaintiff and the Class Members as set forth herein.

**ARTICLE II**

**RECITALS**

This Agreement is made in consideration of the following facts:

2.1. WHEREAS on April 9, 2021 Representative Plaintiff filed her complaint in Alameda County Superior Court against Caravan and Sterling Foods, Inc. asserting the following causes of action on a class basis:

- (1) Failure to Pay Minimum and Straight Time Wages;
- (2) Failure to Pay Overtime Wages;
- (3) Failure to Provide Meal Periods;
- (4) Failure to Authorize and Permit Rest Periods;
- (5) Failure to Timely Pay Final Wages at Termination;

1 (6) Failure to Provide Accurate Itemized Wage Statements; and

2 (7) Violation of Business & Professions Code §§17200, et seq.;

3 2.2. WHEREAS, on April 12, 2021, Representative Plaintiff sent a “Notice of Labor Code  
4 Violations and PAGA Penalties” to the California Labor and Workforce Development Agency (the  
5 “LWDA”) alleging that while employed by Caravan and Sterling Foods, Inc., Representative  
6 Plaintiff and other employees had suffered various violations of the California Labor Code;

7 2.3. WHEREAS, on May 6, 2021, Representative Plaintiff amended her complaint by  
8 removing Sterling Foods, Inc. from the complaint, substituting in Sterling BV, Inc. (“Sterling”) as a  
9 defendant, and adding a cause of action for Failure to Indemnify Employees for Expenditures;

10 2.4. WHEREAS, on May 10, 2021, Representative Plaintiff sent an “Amended Notice of  
11 Labor Code Violations and PAGA Penalties” to the LWDA, substituting in Sterling as an alleged  
12 employer, reasserting the prior violations of the Labor Code violations, and adding an additional  
13 allegation of Failure to Reimburse and Indemnify Business Expenses;

14 2.5. WHEREAS, the Parties engaged in informal discovery, exchanging information,  
15 documents and reviewing and analyzing extensive data made available by Defendant which enabled  
16 the parties to thoroughly evaluate Representative Plaintiff’s claims, the claims of the putative class,  
17 Defendant’s defenses, and the likely outcomes, risks and expense of pursuing litigation;

18 2.6. WHEREAS, on June 7, 2022, the Parties attended a mediation session with  
19 professional mediator Tripper Ortman via Zoom and reached terms of this arm’s-length Settlement;

20 2.7. WHEREAS, a bona fide dispute exists as to whether any amount of wages or  
21 penalties are due from Defendant to any Class Member and/or to the LWDA and/or to any allegedly  
22 aggrieved employees;

23 2.8. WHEREAS, the Parties desire to compromise and settle all issues and claims that  
24 have been or could have been brought, based on the allegations in the operative Complaint, against  
25 Defendant or related persons in the Action, including all claims brought on a putative class,  
26 collective and representative basis in the Action;

27 2.9. WHEREAS, based on the discovery exchanged as well as their own independent  
28 investigation and evaluation, the Parties have considered the claims asserted by Representative

1 Plaintiff, the defenses asserted by Defendant, the risks associated with the continued prosecution of  
2 the Action, the cost of continued litigation through trial and appeals, and after considering all the  
3 circumstances, the Parties have concluded that the proposed settlement set forth in this Agreement is  
4 fair, adequate, and reasonable and confers substantial benefits upon the Class Members;

5 2.10. WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement,  
6 any of the terms of this Agreement, and any documents filed in connection with the Settlement shall  
7 not constitute, or be offered, received, claimed, construed, or deemed as an admission, finding, or  
8 evidence of: (i) any wrongdoing by any Released Parties, (ii) any violation of any statute or law by  
9 Released Parties, (iii) any liability on the claims or allegations in the Action on the part of any  
10 Released Parties, (iv) any waiver of Defendant’s right to arbitration or the enforceability of any  
11 arbitration agreement, or (v) the propriety of certifying a litigation class or collective (conditionally  
12 or otherwise) or pursuing representative relief under the PAGA in the Action or any other civil or  
13 administrative proceeding; and this Agreement shall not be used by any Person for any purpose  
14 whatsoever in any administrative or legal proceeding, including but not limited to arbitrations, other  
15 than a proceeding to enforce the terms of the Agreement;

16 2.11. NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND  
17 AGREED, by Representative Plaintiff for herself and on behalf of the Participating Class Members  
18 and by Defendant, that, subject to the approval of the Court, the Action shall be settled,  
19 compromised, and dismissed, on the merits and with prejudice, and the Released Class Claims, as  
20 defined below, shall be finally and fully compromised, settled and dismissed as to the Released  
21 Parties, in the manner and upon the terms and conditions hereafter set forth in this Agreement.

22 **ARTICLE III**

23 **DEFINITIONS**

24 As used in the Agreement, the following terms have the meanings specified below:

25 a. “Action” means the civil action commenced by Representative Plaintiff in the California  
26 Superior Court, County of San Diego entitled *Kaneisha Kingsbury v. Caravan Foods II, Inc., et al.*,  
27 Case No. RG21096357 on April 9, 2021.

1 b. "Agreement" means this Stipulated Settlement Agreement And Release Of Claims, including  
2 the Class Notice, as defined below, attached as Exhibit A.

3 c. "Claims Administrator" means the third-party administrator approved by the court who will  
4 administer the settlement as set forth below.

5 d. "Claims Administration Costs" means all costs incurred by the Claims Administrator in  
6 administration of the Settlement, including, but not limited to address verification measures, mailing  
7 of notice to the Class, calculation of Individual Settlement Payments, generation of Individual  
8 Settlement Payment checks, administration of uncashed checks, generation of checks to Class  
9 Counsel for attorney's fees and costs, generation of the check to the Representative Plaintiff for her  
10 Service Award, generation of a check for the PAGA Payment, and generation and submission of all  
11 tax-related documents, all pursuant to the terms of this Agreement.

12 e. "Class Claims" means all claims for wages, benefits and related penalties actually alleged or  
13 that could have been alleged in the Action by the Representative Plaintiff, on behalf of themselves  
14 and the California Class Members, based on the facts alleged in the First Amended Complaint,  
15 including but not limited to: (1) Failure to Pay Minimum and Straight Time Wages; (2) Failure to  
16 Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest  
17 Periods; (5) Failure to Timely Pay Final Wages at Termination; (6) Failure to Provide Accurate  
18 Itemized Wage Statements; (7) Violation of Business & Professions Code §§17200, et seq.; (8)  
19 Failure to Reimburse for Business Expenses; (9) Violations of the Private Attorneys General Act  
20 (Cal. Labor Code §2699, et seq.; and (10) Attorneys' Fees and Costs of Litigation associated with  
21 this Action. "Class Claims" also includes all claims that the Representative Plaintiff and/or Class  
22 Members may have against the Released Parties relating to (i) the payment, taxation and allocation  
23 of the Class Counsel Award pursuant to this Settlement Agreement and (ii) the payment, taxation  
24 and allocation of Representative Plaintiff's Service Awards pursuant to this Settlement Agreement.

25 f. "Class Counsel" means the attorneys for the Class and the Class Members, who are:

26 Justin F. Marquez  
27 justin@wilshirelawfirm.com  
28 Benjamin H. Haber  
benjamin@wilshirelawfirm.com  
Arrash T. Fattahi

1 afattahi@wilshirelawfirm.com  
2 Wilshire Law Firm  
3 3055 Wilshire Blvd., 12th Floor  
4 Los Angeles, CA 90010  
5 Telephone: (213) 381-9988  
6 Facsimile: (213) 381-9989

7 g. "Class Member(s)" means current and former non-exempt, hourly paid employees who were  
8 employed by Caravan in the State of California at any time commencing four (4) years prior to the  
9 filing of this Action to the date of mediation, June 7, 2022 (which is estimated to consist of  
10 approximately 1,090 current and former employees).

11 h. "PAGA Member(s)" or "Aggrieved Employee(s)" means current and former non-exempt,  
12 hourly paid employees who were employed by Caravan in the State of California at any time from  
13 April 12, 2020 to the date of the mediation, June 7, 2022.

14 i. "Class Notice" means the Notice of Proposed Class Action Settlement attached hereto as  
15 Exhibit "A" or in substantially the same form as ultimately approved by the Court.

16 j. "Class Period" means the period from April 9, 2017 through the date of mediation, June 7,  
17 2022.

18 k. "PAGA Period" means the period from April 12, 2020 through the date of mediation, June 7,  
19 2022.

20 l. "Complete and General Release" means an irrevocable and unconditional release given only  
21 by Representative Plaintiff, releasing Defendant and the Released Parties from any and all charges,  
22 complaints, claims, causes of action, debts, sums of money, controversies, agreements, promises,  
23 damages and liabilities of any kind or nature whatsoever, both at law and equity, known or  
24 unknown, suspected or unsuspected, arising from conduct occurring on or before the date  
25 Representative Plaintiff signs this Settlement Agreement, including but not limited to a release of  
26 any and all rights Representative Plaintiff has to sue or bring any type of claim under (a) California  
27 state law, the Fair Labor Standards Act; (d) Title VII of the Civil Rights Act of 1964, as amended, 42  
28 U.S.C. § 2000e et seq., (e) the Employment Act of 1967, (f) the Civil Rights Act of 1991, (g) the  
Civil Rights Act of 1866 and 1870, (g) 42 U.S.C. § 1981, as amended, (h) Executive Order 11246,  
(i) the Americans with Disabilities Act, 42 U.S.C. § 12101, et. seq, as amended, (j) the Family and

1 Medical Leave Act, as amended, (k) the Equal Pay Act of 1963, as amended, (l) the Immigration and  
2 Reform Control Act, as amended, (m) the Occupational Safety and Health Act, as amended, (n) the  
3 Sarbanes-Oxley Act of 2002, as amended, (o) the Employment Retirement Income Security Act of  
4 1974, as amended (except vested benefits), (p) the Worker Adjustment and Benefit Protection Act of  
5 1990, as amended, (q) the Worker Adjustment and Retraining Notification Act, as amended, (r) any  
6 federal, state or common law claim or cause of action based on any alleged failure to pay wages,  
7 breach of contract, wrongful discharge, constructive discharge, retaliation, defamation, slander,  
8 liable, intentional or negligent infliction of emotional distress, misrepresentation, fraud, promissory  
9 estoppel, (s) any other tort or negligence claim or obligations arising out of any of Defendant's  
10 employment policies or practices, employee handbooks, and/or any statements by any employee or  
11 agent of Defendant whether oral or written; and (t) for reinstatement, back pay, bonus, attorneys'  
12 fees, compensatory damages, costs, front pay, any form of equitable or declaratory relief, liquidated  
13 damages, emotional distress, personal injury, punitive damages, pain and suffering, medical  
14 expenses, damage to reputation, damage for personal, emotional or economic injury or damage of  
15 any kind. This provision is intended by the Parties to be all-encompassing and to act as a full and  
16 total release of any claim, whether specifically enumerated herein or not, that Representative  
17 Plaintiff might have or have had, that exists or ever has existed on or prior to the date this Settlement  
18 Agreement is signed. This release includes a 1542 Waiver. The Parties understand and agree that the  
19 word "claims" includes all actions, group actions (including any pending or future collective, class,  
20 private attorney general or representative actions for which Representative Plaintiff may otherwise  
21 qualify as a putative class member or represented party), complaints and grievances that could  
22 potentially be brought by Representative Plaintiff against the Released Parties.

23 m. "Defendant" shall mean *Caravan Foods II, Inc.*

24 n. "Defense Counsel" means counsel for Defendant, who are:

25 Lindsay E. Hutner  
26 hutnerl@gtlaw.com  
27 Sam Hyde  
28 hydes@gtlaw.com  
Greenberg Traurig, LLP  
101 Second Street, Suite 2200  
San Francisco, CA 94105

1 Telephone: (415) 655-1300  
2 Facsimile: (415) 707-2010

3 o. "Final Effective Date" means the date on which the Settlement is approved and the Court's  
4 Final Order and Judgment becomes Final. The Court's Final Order and Judgment becomes final  
5 upon the later of: (i) if an intervention is granted, but no appeal is filed, the expiration date of the  
6 time for the filing or noticing of any appeal from, or other challenge to, the Court's Judgment (this  
7 time period shall not be less than 60 calendar days after the Court's Judgment is entered); (ii) if an  
8 appeal is filed, the date affirmance of an appeal of the Judgment becomes final under the California  
9 Rules; (iii) if an appeal is filed, the date of final dismissal of any appeal from the Judgment or the  
10 final dismissal of any proceeding on review of any court of appeal decision relating to the Judgment;  
11 (iv) if objections are filed and overruled, and no appeal is taken of the final approval order, then the  
12 Effective Date of final approval will be sixty-five (65) days after the trial court enters final approval;  
13 or (v) if no intervention is granted and no objections are filed, the date on which the Court grants  
14 final approval of this Agreement on substantially the terms provided herein as the same may be  
15 modified by subsequent written agreement of the Parties and signs the Final Order granting final  
16 approval of this Agreement.

17 p. "Final Fairness and Approval Hearing" means the hearing to determine whether the proposed  
18 Agreement settling the Action should be finally approved as fair, reasonable, and adequate; whether  
19 the proposed plan of allocation of the Net Fund Value Amount should be approved; whether the  
20 Representative Plaintiff's Service Award should be approved; and whether the applications of Class  
21 Counsel for attorney's fees and costs should be approved.

22 q. "Final Order" refers to the order of the Court granting final approval of this Agreement as to  
23 the Final Settlement Class (defined below) and entering a judgment approving this Agreement on  
24 substantially the terms provided herein or as the same may be modified by subsequent written  
25 agreement of the Parties.

26 r. "Final Settlement Class" refers to the Representative Plaintiff and all Class Members who do  
27 not timely and validly exclude themselves from the class in compliance with the exclusion  
28 procedures set forth in Section 5.04.a of this Agreement.

1 s. “Gross Fund Value Amount” means the \$1,250,000.00 (One Million, Two Hundred Fifty  
2 Thousand Dollars and Zero Cents) to be paid by Defendant as provided by this Agreement to settle  
3 this Action. This is an “all in” number that includes, without limitation, all monetary benefits and  
4 payments for the Final Settlement Class Members, the Service Awards, the Class Counsel Award,  
5 the Settlement Administrator expenses and the PAGA Payment, and all other claims for interest,  
6 fees, and costs. Other than the employer’s share of payroll taxes, in no event will Defendant pay  
7 more than the Gross Fund Value Amount.

8 t. “Individual Settlement Payments” means the amounts of money from the Net Fund Value  
9 Amount that shall be paid to the Participating Class Members less employee’s portion of payroll  
10 taxes owed. Individual Settlement Payments shall be each Participating Class Member's share of the  
11 Net Fund Value Amount (which share shall be determined by the calculations provided in this  
12 Agreement at Section 5.06.c.).

13 u. “Judgment” refers to the judgment entered by the Court in conjunction with the Final Order.

14 v. “LWDA” means the California Labor and Workforce Development Agency.

15 w. “Net Fund Value Amount” means the Gross Fund Value Amount of \$1,250,000.00 (One  
16 Million, Two Hundred Fifty Thousand Dollars and Zero Cents) less all of the following amounts  
17 approved by the Court: (1) Class Counsel’s court-approved attorney’s fees (not to exceed 33 1/3% of  
18 the Gross Fund Value, an amount currently estimated to be Four Hundred Sixteen Thousand, Six  
19 Hundred Sixty Six Dollars and Sixty-Seven Cents (\$416,666.67) if the escalator clause in Section  
20 5.06 does not apply); (2) Class Counsel’s court-approved collective litigation costs (not to exceed  
21 Twenty Thousand Dollars (\$20,000.00); (3) the court-approved Service Award to be paid to the  
22 Representative Plaintiff (not to exceed Ten Thousand Dollars (\$10,000.00); (4) the amount of court-  
23 approved PAGA penalties to be paid to the LWDA of Ten Thousand Dollars (\$10,000.00) which  
24 equates to 75% of the total amount allocated for PAGA Penalties of Seven Thousand and Five  
25 Hundred Dollars (\$7,500.00); and (5) the Claims Administrator’s court-approved fees in the  
26 anticipated amount of not more than Fifteen Thousand Dollars (\$15,000.00). The estimated Net  
27 Fund Value Amount is estimated to be \$778,833.33 plus any residuals from amounts requested in  
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1 this paragraph which are not ultimately distributed to the respective Parties due to invoicing of a  
2 lesser amount by the Claims Administrator or court approval of a lesser amount than requested.

3 x. “Non-Participating Class Member(s)” means those Class Members who submit to the Claims  
4 Administrator a valid and timely written request to be excluded from the Class pursuant to Section  
5 5.04.a below.

6 y. “PAGA” means the Private Attorneys General Act of 2004, California Labor Code sections  
7 2698, *et seq.*

8 z. “Participating Class Member(s)” means those Class Members who do not submit valid  
9 requests for exclusion.

10 aa. “Parties” means Representative Plaintiff and Defendant as defined herein.

11 bb. “Released Parties” means (i) Caravan Foods II, Inc. and its past, present, and future parents,  
12 subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities,  
13 whether foreign or domestic, and (ii) the past, present, and future shareholders, officers, directors,  
14 members, investors, agents, employees, consultants, representatives, fiduciaries, insurers, attorneys,  
15 legal representatives, predecessors, successors, and assigns of the entities listed in (i).

16 cc. “Released Class Claims” means the Class Claims, and if Class Members cash the checks for  
17 their Individual Settlement Payments, that the Final Settlement Class Members are fully and  
18 irrevocably releasing in exchange for the consideration provided by this Settlement Agreement,  
19 whether arising at law, in contract or in equity, and whether for economic or non-economic damages,  
20 restitution, injunctive relief, penalties or liquidated damages from April 9, 2017, through the date of  
21 mediation, June 7, 2022.

22 dd. “Representative Plaintiff” and/or “Kingsbury” means named Plaintiff Kaneisha Kingsbury.

23 ee. “Service Award” means a monetary amount not to exceed Ten Thousand Dollars  
24 (\$10,000.00) for the Representative Plaintiff which, subject to Court approval, shall be paid pursuant  
25 to Section 5.06.b.3 of the Agreement, as provided below.

26 ff. “Settlement” means the disposition of this Action and all related claims effectuated by this  
27 Agreement.

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**ARTICLE IV**

**CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

4.1. Certification Of Class And Claims. Solely for the purposes of this Settlement, the Parties stipulate and agree that the Court may certify a class consisting of “all current and former non-exempt hourly paid employees who worked for Defendant within the State of California at any time from April 9, 2017 through the date of mediation, June 7, 2022.”

4.2. Appointment Of Class Representative. Solely for the purposes of this Settlement, the Parties stipulate and agree Representative Plaintiff shall be appointed as representative of the Final Settlement Class.

4.3. Appointment Of Class Counsel. Solely for the purposes of this Settlement, the Parties stipulate and agree that Class Counsel shall be appointed as counsel for the Final Settlement Class.

4.4. Appointment Of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree that CPT Group, Inc. shall be appointed to serve as Settlement Administrator.

4.5. Conditional Nature Of Stipulation For Certification. Solely for the purposes of this Settlement, the Parties stipulate and agree to the certification of the Final Settlement Class. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves its right to oppose claim or class certification in this or any other action should this Settlement not become effective.

4.6. Stay Of Proceedings. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.

4.7. Arbitrability of Claims. The Settlement is not intended to and may not be deemed to affect the enforceability of any arbitration agreement between Defendant and Representative Plaintiff and/or between Defendant and any Class Member.

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**ARTICLE V**

**PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

Because the Parties have stipulated to the certification of the Class for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, as set forth in Section IV, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Court does not grant either the Preliminary or Final Approval of the settlement, the fact that the Parties were willing to stipulate to class certification for the purposes of this Agreement shall have no bearing on, or be admissible in connection with, the issue of whether any class should be certified in a non-settlement context. If the Final Effective Date does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class certification for any purpose if the settlement does not become final.

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain Court approval and implement this Agreement. The procedure for obtaining Court approval of and implementing this Agreement shall be as follows.

**Section 5.01: Motion for Conditional Class Certification and Preliminary Approval**

a. Representative Plaintiff shall bring a motion before the Court for an order conditionally certifying the Class based on the preliminary approval of this Agreement, including the Class Notice attached hereto as Exhibit “A.” The date that the Court grants preliminary approval of this Agreement shall be the “Preliminary Approval Date.”

b. Representative Plaintiff shall serve a notice of settlement on the LWDA at the same time they file motion for preliminary approval.

c. The Parties stipulate to the form of, and agree to submit to the Court for its consideration, this Settlement Agreement, and the following Exhibits to this Settlement Agreement: the Class Notice (Exhibit A) and a [Proposed] Preliminary Approval Order approved by both Parties.

d. The [Proposed] Preliminary Approval Order shall:

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- Conditionally grant class certification;
- Conditionally appoint Representative Plaintiff and Class Counsel as representatives of the proposed Class Members;
- Appoint CPT Group, Inc. as the Settlement Administrator, and order the Settlement Administrator to provide notice of the settlement as outlined below;
- Confirm that the procedure for distributing the Class Notice (discussed below) (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, and their right to exclude himself from or object to the proposed settlement and to appear at the Final Fairness and Approval Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of, due process, and any other applicable rules or law;
- Confirm the notice of settlement served by Representative Plaintiff on the LWDA satisfies the requirements of the PAGA.
- Impose a stay on all litigation of the Action pending the Final Fairness and Approval Hearing, or Class Members from prosecuting any claims against Defendant or the Released Parties pending the Final Fairness and Approval Hearing unless they have timely opted-out of the settlement; and;
- Order that the preliminary approval of the Settlement, certification of the Class Claims and all actions associated with them, are undertaken on the condition that they shall be vacated if the Settlement Agreement is terminated or disapproved in whole or in material part by the Court (i.e. not including modification of the amount of Attorney’s Fees, Attorney’s Costs, or Class Representative Enhancement by the Court), or any appellate court and/or other court of review in which event the Settlement Agreement and the fact that it was entered into shall not be offered, received, or construed as an

1 admission or as evidence for any purpose, including but not limited to an  
2 admission by any Party of liability or non-liability or of the certifiability of a  
3 litigation class or the appropriateness of maintaining a representative action.

4 **Section 5.02: The Claims Administrator**

5 A court-appointed third-party Claims Administrator will serve to administer this Settlement  
6 pursuant to the terms herein. The Claims Administrator will administer the settlement by performing  
7 address verification for the Class Members, distributing the Class Notice and Reminder Postcards, if  
8 necessary, performing skip traces, receiving and recording completed Settlement Opt-Outs,  
9 adjudicating Class Members’ disputes over workweeks worked during the Class Period in the  
10 relevant positions as an hourly and/or non-exempt employee, providing Class Counsel and counsel  
11 for Defendant with weekly updates on the status of Opt-Outs, and handling any potential inquiries  
12 about the calculation of the Individual Settlement Amounts. The Claims Administrator shall provide  
13 the Parties with the names of individuals who submitted timely Opt-Outs after the expiration of the  
14 claims period for inclusion in the proposed final approval Order. The actions of the Claims  
15 Administrator shall be governed by the terms of this Stipulation. The Parties, through their counsel,  
16 may provide written information needed by the Claims Administrator pursuant to the Stipulation.

17 All costs of administering the Settlement, including but not limited to all costs and fees  
18 associated with preparing, issuing, and mailing any and all notices to Class Members, all costs and  
19 fees associated with computing, processing, reviewing, and mailing the Individual Settlement  
20 Payments, all costs and fees associated with preparing any tax returns and any other filings required  
21 by any governmental taxing authority or agency, all costs and fees associated with preparing any  
22 other notices, reports, or filings to be prepared in the course of administering disbursements from the  
23 Net Fund Value Amount, and any other costs and fees incurred and/or charged by the Claims  
24 Administrator in connection with the execution of its duties under this Agreement (“Claims  
25 Administration Costs”), anticipated to be not more than Fifteen Thousand Dollars (\$15,000.00), shall  
26 be paid out of the Gross Fund Value Amount.

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1           **Section 5.03: Notice to Class Members**

2           **a. Initial Identification of Class Members:** Within seven (7) business days following  
3 entry of the Preliminary Approval Order, Defendant shall provide to the Claims Administrator a  
4 confidential list in Excel spreadsheet format containing the name and last known address, telephone  
5 number, and social security number of each Class Member. This list shall also contain the gross  
6 wages earned by each individual Class Member as an hourly or non-exempt employee for Defendant  
7 during the Class Period and the commencement dates and termination dates (if applicable) relating to  
8 each individual Class Member during the Class Period. This information shall be treated as  
9 confidential.

10           **b. Mailing of Class Notice:** Promptly upon receipt of the Class Member information  
11 from Defendant, the Claims Administrator shall attempt to obtain updated addresses for Class  
12 Members from the U.S. Postal Service and Accurint. Within fourteen (14) calendar days after receipt  
13 of the Class Member information from Defendant, or receipt of any updated addresses from the U.S.  
14 Postal Service, whichever is later, the Claims Administrator shall mail the Class Notice to all Class  
15 Members via first-class mail using the updated address information. With respect to each Class  
16 Notice that is returned as undeliverable, the Claims Administrator shall promptly attempt to  
17 determine a correct address using an additional skip trace service such as Experian and shall re-send  
18 the Class Notice via first-class mail to any new address thereby determined within 10 days of  
19 receiving the notice that the Class Notice was undeliverable.

20           **c. Notification to Counsel:** No later than ten (10) days prior to the Final Fairness and  
21 Approval Hearing, the Claims Administrator shall provide Defense Counsel and Class Counsel with  
22 a declaration attesting to completion of the notice process, including any attempts to obtain valid  
23 mailing addresses for and re-sending of any returned Class Notices, as well as the number of valid  
24 opt-outs that the Claims Administrator received. Upon approval by the court, compliance with the  
25 procedures described in this Section 5.03.b shall constitute due and sufficient notice to Class  
26 Members of this proposed Settlement and the Final Fairness and Approval Hearing and shall satisfy  
27 the requirement of due process. Nothing else shall be required of the Parties, Class Counsel, Defense  
28

1 Counsel, or the Claims Administrator to satisfy the requirements of providing notice of the proposed  
2 Settlement and the Final Fairness and Approval Hearing.

3 **Section 5.04: Responses to Notice**

4 **a. Requests for Exclusion from Class**

5 For any other Class Member to validly exclude himself or herself from the Class and this  
6 Settlement (*i.e.*, to validly opt-out), a written request for exclusion must be signed by the Class  
7 Member or his or her authorized representative, and must be sent to the Claims Administrator,  
8 postmarked by no later than thirty (30) days after the date the Claims Administrator initially mails  
9 the Class Notice to the Class Members. For Notices re-mailed by the Claims Administrator pursuant  
10 to section 5.03.b, the written request for exclusion must be postmarked by no later than thirty (30)  
11 days of the initial mailing of the Class Notice or twenty (20) days of the re-mailing, whichever is  
12 later. The Class Notice shall contain individualized estimated payments, set forth instructions on  
13 how to opt-out and include the language to be used in a request for exclusion. The date of the initial  
14 mailing (or re-mailing for Class Notices re-mailed) of the Class Notice and the date the signed  
15 request for exclusion was postmarked, shall be conclusively determined according to the records of  
16 the Claims Administrator. Any Class Member who timely and validly requests exclusion from the  
17 Class and this Settlement shall become a Non-Participating Class Member and shall not be entitled  
18 to any Individual Settlement Payment, shall not be bound by the terms and conditions of this  
19 Agreement, and shall not have any right to object, appeal, or comment thereon.

20 Final Settlement Class members may exclude themselves or “opt out” from a release of Class  
21 Claims by not depositing or cashing their Individual Settlement Payment checks. The Class Notice  
22 and Individual Settlement Payment check will conspicuously advise Final Settlement Class of such.

23 **b. Objections to Settlement**

24 For any Class Member to object to this Agreement, or any term of it, the person making the  
25 objection must not submit a request for exclusion (*i.e.*, must not opt-out), and must, by no later than  
26 thirty (30) days after the Class Notice was initially mailed to the Class Members, file with the Court  
27 and serve on Class Counsel and Defense Counsel, a written statement of the grounds of objection,  
28 signed by the objecting Class Member or his or her attorney, along with all supporting papers. For

1 Class Notices re-mailed by the Claims Administrator pursuant to section 5.03.b, written statements  
2 of the grounds for objection must be filed and served no later than thirty (30) days after the initial  
3 mailing of the Class Notice or twenty (20) days of the re-mailing, whichever is later. The date of  
4 mailing or re-mailing of the Class Notice to the objecting Class Member shall be conclusively  
5 determined according to the records of the Claims Administrator. The Court retains final authority  
6 with respect to the consideration and admissibility of any Class Member objections.

7 Counsel for the Parties shall file any response to the objections submitted by objecting Class  
8 Members at least ten (10) court days before the date of the Final Fairness and Approval Hearing or  
9 ten (10) days after the receipt of the notice of objection, whichever is later.

10 **c. Failure to Object**

11 Any Class Member who fails to timely file and serve such a written statement of his or her  
12 intention to object shall be foreclosed from making any objection to this settlement, unless otherwise  
13 ordered by the Court.

14 **d. Failure to Timely Opt Out**

15 Any Class Member who fails to submit a timely request for exclusion from the Class  
16 automatically shall be deemed a member of the Final Settlement Class whose rights and claims with  
17 respect to the issues raised in the Action are determined by the Court's Final Order, and by the other  
18 rulings in the Action.

19 **e. Right of Defendant to Void Agreement**

20 If more than ten percent (10%) of Class Members make a valid request to be excluded from  
21 the Class as described in Section 5.04.a above and thus become Non-Participating Class Members,  
22 Defendant shall have the right, but not the obligation, to void the Agreement. If Defendant exercises  
23 that right to void the Agreement, then the Parties shall have no further obligations under the  
24 Agreement, including any obligation by Defendant to pay the Gross Fund Value Amount, or any  
25 amounts that otherwise would have been owed under this Agreement, except that Defendant shall  
26 pay the Claims Administrator's reasonable fees and expenses incurred as of the date that Defendant  
27 exercises their right to void the Agreement. Defendant shall notify Class Counsel and the Court  
28 whether they are exercising the right to void the Agreement no later than ten (10) calendar days after



1 the Claims Administrator notifies the Parties of the final total number of valid requests to be  
2 excluded.

3 **Section 5.05: Final Fairness and Approval Hearing**

4 **a. Final Approval Hearings**

5 On the date set forth in the Order of Preliminary Approval and Class Notice, which shall be  
6 approximately one hundred and five (105) days after the initial mailing of the Notice of Proposed  
7 Class Action Settlement, or on a reasonable date as set forth by the Court, a Final Fairness and  
8 Approval Hearing shall be held before the Court in order (1) to review this Agreement and determine  
9 whether the Court should give it final approval; and (2) to consider any timely objections made  
10 pursuant to Section 5.04.b above and all responses by the Parties to such objections. At the Final  
11 Fairness and Approval Hearing, the Parties shall ask the Court to give final approval to this  
12 Agreement and shall submit to the Court a proposed Final Order approving the Settlement and which  
13 shall be entered in the Action.

14 Representative Plaintiff shall file a motion requesting final approval of the Settlement  
15 approved by all Parties, the entry of which is a material condition of this Settlement. The Final  
16 Approval Order shall adjudge that, among other things:

- 17 • The Settlement Administrator has fulfilled its initial notice and reporting  
18 duties under the Settlement and that the Class Notice (i) constituted the best  
19 practicable notice; (ii) constituted notice that was reasonably calculated, under  
20 the circumstances, to apprise Class Members of the pendency of the Action,  
21 and their right to exclude himself from or object to the proposed settlement  
22 and to appear at the Final Approval Hearing; (iii) was reasonable and  
23 constituted due, adequate, and sufficient notice to all persons entitled to  
24 receive notice; and (iv) met all applicable requirements of due process, and  
25 any other applicable rules or law.
- 26 • The Settlement is fair, reasonable, and adequate;
- 27 • Representative Plaintiff and Class Counsel may adequately represent the Final  
28 Settlement Class for the purpose of entering into and implementing the

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Agreement;

- The Settlement Administrator is to execute the distribution of proceeds pursuant to the terms of this Agreement;
- The Final Approval Order and Judgment of dismissal shall be final and entered forthwith;
- Without affecting the finality of the Final Approval Order and Judgment, the Court retains continuing jurisdiction over Representative Plaintiff, Defendant, the Final Settlement Class as to all matters concerning the administration, consummation, and enforcement of this Settlement Agreement;
- As of the Final Approval Date, the Representative Plaintiff, the Final Settlement Class, and their Legally Authorized Representatives, heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have received actual notice of the proposed Settlement, have conclusively compromised, settled, discharged, and provided: the Complete and General Release (in the case of Representative Plaintiff) and the release of Released Class Claims (in the case of the Final Settlement Class Members), and are bound by the provisions of this Settlement Agreement;
- Notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the settlement and release of the PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal.4th 969 (2009), as requests for exclusion do not apply to the PAGA Claims, and further affirms that the State’s claims for civil penalties pursuant to PAGA are also extinguished;
- This Settlement Agreement and the Final Approval order and Judgment to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings that encompass the claims of

1 Representative Plaintiffs and Final Settlement Class members and/or their  
2 heirs, estates, trustees, executors, administrators, principals, beneficiaries,  
3 representatives, agents, assigns, and successors, and/or anyone claiming  
4 through them or acting or purporting to act for them or on their behalf;

- 5 • Representative Plaintiff and the Final Settlement Class members are  
6 permanently barred from filing, commencing, prosecuting, intervening in, or  
7 participating (as class members or otherwise) in any other lawsuit or  
8 administrative, regulatory, arbitration, or other proceeding in any jurisdiction  
9 based on the claims released herein; and
- 10 • The Settlement provided for herein, and any proceedings undertaken pursuant  
11 thereto, are not, and should not in any event be offered, received, or construed  
12 as evidence of, a presumption, concession, or an admission by any Party of  
13 liability or non-liability or of the certifiability or non-certifiability of a  
14 litigation class or collective, or that PAGA representative claims may validly  
15 be pursued; provided, however, that reference may be made to this Settlement  
16 in such proceedings as may be necessary to effectuate the provisions of this  
17 Settlement.

18 **b. Vacatur, Reversal, or Material Modification of Final Order and Judgment on**  
19 **Appeal or Review**

20 If, after a notice of appeal, petition for review, or any other motion, petition, or application,  
21 the reviewing court vacates, reverses, or modifies the Final Order and Judgment such that there is a  
22 material modification to the Settlement and that court’s decision is not completely reversed, and the  
23 Final Order and Judgment is not fully affirmed on review by a higher court, then Representative  
24 Plaintiff and Defendant shall each have the right, but not the obligation, to void the Settlement,  
25 which the Party must do by giving written notice to the other Parties, the final reviewing court, and  
26 the Court not later than ten (10) business days after the final reviewing court’s decision vacating,  
27 reversing, or materially modifying the Final Order becomes final and non-appealable. If either Party  
28 exercises its right to void the Agreement under this section, then the Parties shall have no further

1 obligations under the Agreement, including any obligation by Defendant to pay the Gross Fund  
2 Value Amount, or any amounts that otherwise would have been owed under this Agreement. The  
3 Party exercising its right to void the Agreement shall pay the Claims Administrator's reasonable fees  
4 and expenses incurred as of the date the Party exercises its right to void the Agreement. If the Parties  
5 mutually agree to void the Agreement, then the Claims Administrator's reasonable fees and expenses  
6 incurred as of the date the Parties exercise their right to void the Agreement shall be split equally. A  
7 vacatur, reversal, or modification of the Court's award of the Service Award or Class Counsel's fees  
8 or costs shall not constitute a vacatur, reversal, or material modification of the Final Order and  
9 Judgment within the meaning of this paragraph.

10 **Section 5.06: Settlement Payment Procedures**

11 **a. Settlement Sum**

12 In exchange for the releases set forth in this Agreement, Defendant agrees to pay the Gross  
13 Fund Value Amount of One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000.00),  
14 exclusive of employer-side payroll taxes. The Gross Fund Value Amount was calculated based on  
15 the premise that there are approximately 1090 Class Members eligible to participate in the  
16 Settlement representing a total of approximately 78,328 workweeks. In the event the actual number  
17 of workweeks in the Settlement is greater than 20% of this estimate, then the Gross Fund Value  
18 Amount will be increased by the same proportion above 20%. The Settlement Sum includes Class  
19 Counsel's attorney's fees not to exceed 33 1/3% of the Gross Fund Value and litigation costs of not  
20 more than Twenty Thousand Dollars (\$20,000.00), a Service Award for Representative Plaintiff of  
21 not more than Ten Thousand Dollars (\$10,000.00), the PAGA penalty payment of Ten Thousand  
22 Dollars (\$10,000.00), which includes the payment of Seven Thousand and Five Hundred Dollars  
23 (\$7,500.00) to the LWDA, the Claims Administration Costs anticipated to be not more than Fifteen  
24 Thousand Dollars (\$15,000.00).

25 **b. Allocation of Settlement Amount:** In full and complete settlement of the Action and  
26 subject to this Settlement being approved by the Court, Defendant shall pay One Million Two  
27 Hundred Fifty Thousand Dollars (\$1,250,000.00), (the "Gross Fund Value Amount"). The Gross  
28 Fund Value Amount shall be paid to the Claims Administrator no later than thirty (30) calendar days

1 after the Final Effective Date. If the Court does not grant final approval upon the material terms of  
2 the settlement (other than modification of the requested attorney's fees, costs or class representative  
3 service award) or if more than 10% of the putative class members opt out as set forth in Section  
4 5.04(e) and the Defendant elects to void the settlement, Defendant shall have no further obligation  
5 under this Agreement. If the Court grants final approval of the settlement, the settlement funds shall  
6 be disbursed as follows:

7           **1. Reasonable attorney's fees and litigation expenses:** Class Counsel have  
8 stated they shall request that the Court award them reasonable attorney's fees in an amount up to 33  
9 1/3% of the Gross Fund Value and litigation costs in an amount up to Twenty Thousand Dollars  
10 (\$20,000.00). Defendant has agreed neither to oppose nor adversely comment on the fees and  
11 litigation costs request. The award of reasonable attorney's fees and litigation costs granted by the  
12 Court shall be paid out of the Gross Fund Value Amount within thirty-five (35) calendar days of the  
13 Final Effective Date in accordance with Section 5.06.d.2-3, below.

14           **2. Reasonable expenses of the Claims Administrator:** The Claims  
15 Administrator shall be paid out of the Gross Fund Value Amount and such payment shall not  
16 constitute payment to any Participating Class Member(s). The Claims Administration Costs,  
17 expected not to exceed Fifteen Thousand Dollars (\$15,000.00), shall be paid out of the Gross Fund  
18 Value Amount within thirty five (35) calendar days after the Final Effective Date in accordance with  
19 Section 5.06.d.1, below.

20           **3. Reasonable Service Award to the Representative Plaintiff:**  
21           Subject to Court approval, the Representative Plaintiff shall make a separate application for  
22 up to Ten Thousand Dollars (\$10,000.00) as a Service Award. The Service Award shall be paid by  
23 check made payable to the Representative Plaintiff, which shall be delivered by the Claims  
24 Administrator to Class Counsel within thirty-five (35) calendar days after the Final Effective Date.  
25 The Service Award shall be paid out of the Gross Fund Value Amount and shall not constitute  
26 payment(s) to any Participating Class Member(s).

27           It is the intent of the Parties that the Service Award represent payment to Representative  
28 Plaintiff for the additional risks undertaken in prosecuting this action and her service to the Class

1 Members, and not wages, thus, the Claims Administrator shall not withhold any taxes from the  
2 Service Award. The Service Award shall be reported on a Form 1099, which shall be provided by  
3 the Claims Administrator to the Representative Plaintiff and to the pertinent taxing authorities as  
4 required by law. Although it is the contemplation of the Parties that the Service Award does not  
5 represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other  
6 taxing authority may take the position that some or all of the Service Award constitutes wages for  
7 income tax and withholding purposes. The Representative Plaintiff agrees to assume the  
8 responsibility of remitting to the Internal Revenue Service, the California Franchise Tax Board, and  
9 any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendant  
10 from the Service Award paid under this Agreement.

11 **4. PAGA Payment:** A payment of Ten Thousand Dollars (\$10,000.00) shall be  
12 allocated to PAGA penalties, Seven Thousand and Five Hundred Dollars (\$7,500.00) of which shall  
13 be payable to the California LWDA within thirty (35) calendar days of the Final Effective Date. The  
14 PAGA penalties shall be paid out of the Gross Fund Value Amount. The remaining portion of the  
15 PAGA payment shall be distributed pro-rata to the PAGA Members as set forth below in Section  
16 5.06.c.2.

17 **5. Allocation to Participating Class Members:** The amount remaining from  
18 the Gross Fund Value Amount after deducting the court-awarded reasonable attorney's fees and  
19 litigation costs, reasonable Claims Administration Costs, reasonable Service Award payment, and  
20 PAGA penalties portion allocated to the LWDA (the "Net Fund Value Amount") shall be distributed  
21 to members of the Class in accordance with the formula set forth below in Section 5.06.c. Final  
22 Settlement Class members are not eligible to receive any compensation other than the Individual  
23 Settlement Payments discussed below.

24 **c. Individual Settlement Payments:** The Individual Settlement Payments shall be  
25 calculated as follows:

26 **1. Calculation:** Each Class Member of the Final Settlement Class who does not Opt-  
27 Out shall be eligible to receive his/her Individual Settlement Payment, which shall be based on  
28 information contained in Defendant's pertinent payroll records, and calculated as follows:

1 i) Each Class Member of the Final Settlement Class shall be allocated a  
2 payment equal to the pro rata portion of the number of weeks worked by that class member  
3 while employed with Defendant within the State of California during the Class Period in  
4 proportion to the total aggregated weeks worked by All Settlement Class Members during the  
5 class period.

6 ii) The employee's share of the payroll taxes shall be deducted and paid from  
7 the Individual Settlement Payment. The Claims Administrator shall calculate the Individual  
8 Settlement Payments and the amount of the employee's share of payroll taxes to be deducted  
9 therefrom in order to determine the net Individual Settlement Payment.

10 **2. PAGA Payment:** The Administrator will calculate each PAGA Payment by (a)  
11 dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500) by the  
12 total number of pay periods worked by all Aggrieved Employees during the PAGA Period and (b)  
13 multiplying the result by each Aggrieved Employee's pay periods.

14 **3. Dispute Resolution:** The Claims Administrator shall have the initial responsibility of  
15 resolving all disputes that arise during the claims administration process, including, without  
16 limitation, disputes, if any, regarding the calculation of the total number of gross wages earned by  
17 each Class Member in their respective positions as residential managers (or otherwise similar job  
18 duties and/or title) where the information submitted by Defendant based on their employment  
19 records differs from the information submitted by Class Members. In resolving such disputes,  
20 Defendant's employment records shall be presumed to be accurate and correct, and shall be final and  
21 binding, unless the information submitted by the Claimant (e.g., pay stubs, employment records,  
22 etc.) proves otherwise. In the event the Claims Administrator cannot resolve a dispute based on a  
23 review of the available information, the Claims Administrator shall request a conference call  
24 between the Claims Administrator, Class Counsel, and Defense Counsel to discuss and resolve the  
25 dispute. After such call, if there is no resolution of the dispute, the dispute shall be submitted to the  
26 Court for a final and binding resolution on the Class Member. In advance of the conference call, the  
27 Claims Administrator shall fax or email copies of all available information to all counsel.

28 **4. Fair Formula:** The Parties hereby agree that the formula for allocating payments to

1 Participating Class Members as provided herein is reasonable and designed to provide a fair  
2 settlement to the Participating Class Members.

3           **5. Allocation of Net Fund Value Amount Payments and Taxes:** All Individual  
4 Settlement Payments made to Participating Class Members under this Agreement shall be allocated  
5 as wages. The Claims Administrator shall deduct from each Individual Settlement Payment all  
6 employee portions of payroll taxes from the amount allocated to wages. Those Individual Settlement  
7 Payments shall be treated by the parties as wages, subject to withholding and reporting on a Form  
8 W-2. Participating Class Members shall report such Individual Settlement Payments as wages  
9 received, and Defendant shall report such Individual Settlement Payments as wages paid, on their  
10 respective federal and state income tax returns. No part of the Individual Settlement Payments shall  
11 be classified as a penalty or allocated to a penalty for purposes of Section 62(f) of the Internal  
12 Revenue Code of 1986, but rather shall be classified as wages. Defendant shall not make as part of  
13 this Agreement, nor be required to make, any deductions, nor pay any monthly contributions for any  
14 insurance, retirement, bonuses, 403(b), or profit-sharing plans related to monies paid as a result of  
15 this Agreement.

16           The Parties understand and agree that Defendant is not providing tax or legal advice, or  
17 making representations regarding tax obligations or consequences, if any, related to this Agreement,  
18 and that the members of the Final Settlement Class will assume any such tax obligations or  
19 consequences that may arise from this Agreement, and that Final Settlement Class Members shall  
20 not seek any indemnification from Defendant in this regard. The Parties agree that, in the event that  
21 any taxing body determines that additional taxes are due from any Final Settlement Class Member,  
22 such Class Member assumes all responsibility for the payment of any such taxes.

23           **d. Timing of Settlement Payments:** As set forth in Section 5.06.b. above, no later than  
24 thirty (30) calendar days following the Final Effective Date, Defendant shall remit the full Gross  
25 Fund Value Amount to the Claims Administrator via wire transfer (or other method reasonably  
26 calculated to be received by the Claims Administrator within thirty (30) calendar days after the Final  
27 Effective Date) for the purposes of making the payments described herein. Payments from the Gross  
28



1 Settlement Fund shall fund the settlement and meet the obligations of Section 5.06.b and be paid by  
2 the Claims Administrator within the time frames set forth below in sections 5.06.d.1-5.

3           Payments of the following from the Gross Fund Value Amount shall be made in accordance  
4 with the following subparagraphs:

5                   **1.       Claims Administrator:** The Claims Administrator shall be paid the Claims  
6 Administration costs from the Gross Fund Value, expected to be not more than Fifteen Thousand  
7 Dollars (\$15,000.00), thirty (35) calendar days after the Final Effective Date.

8                   **2.       Class Counsel's Fees:** The amounts approved by the Court for Class  
9 Counsel's fees shall be paid by the Claims Administrator within thirty-five (35) calendar days after  
10 the Final Effective Date and the Claims Administrator shall pay the total attorney's fee award to  
11 Class Counsel.

12                   **3.       Class Counsel's Costs:** The amount approved by the Court for Class  
13 Counsel's costs shall be paid by the Claims Administrator within thirty-five (35) days after the Final  
14 Effective Date.

15                   **4.       Class Representative's Service Award:** The amount approved by the Court  
16 for the Class Representative's Service Award shall be paid by the Claims Administrator to Class  
17 Counsel within thirty-five (35) calendar days after the Final Effective Date.

18                   **5.       Individual Settlement Payments:** Within fifteen (15) days of the last date for  
19 Opt-Outs or Objections to be timely submitted in accordance with Section 5.04.a and 5.04.b, above,  
20 the Claims Administrator shall provide to the Parties a written statement of all Individual Settlement  
21 Payments to be paid to all Participating Class Members and all required payroll taxes. The Claims  
22 Administrator will distribute the Individual Settlement Payments to all Participating Class Members  
23 within thirty-five (35) calendar days of the Final Effective Date. Claims Administrator shall issue to  
24 each Participating Class Member a check in the amount of his or her Individual Settlement Payment,  
25 as described in Section 5.06.c.1 (less applicable taxes and withholdings) via first-class mail.

26 Uncashed checks not negotiated within 120 days of their issuance are void. All Final Settlement  
27 Class Members shall be bound by this Agreement and the release herein even if the Class Member  
28 does not cash the settlement check issued to him or her comprising his or her Individual Settlement

1 Payment. If any Settlement Class Member has not cashed his or her Settlement Payment check  
2 within ninety (90) days of issuance, the Settlement Administrator shall mail that Class Member a  
3 postcard reminding him/her of the deadline to cash such check and providing information as to how  
4 to obtain a reissued check in the event the check was lost, stolen or misplaced. Any checks issued to  
5 Class Members shall remain valid and negotiable for one hundred twenty (120) days from the date of  
6 issuance. After all settlement funds have been distributed and all checks issued to Settlement Class  
7 Members have either been cashed or have remained uncashed and gone stale, the Settlement  
8 Administrator shall deposit any residual funds from uncashed checks with the California State  
9 Controller's Office – Unclaimed Property.

10 **e. Residuals**

11 If any amount of the Gross Fund Value Amount remains unallocated as a result of  
12 modification to the requested attorney's fees, costs, Class Representative Service Award or Claims  
13 Administration Costs, this amount shall become part of the Net Fund Value Amount and be  
14 distributed pursuant to Section 5.06.c.

15 **f. Circular 230 Disclaimer**

16 Each party to this agreement (for purposes of this section, the "acknowledging party" and  
17 each party to this agreement other than the acknowledging party, an "other party") acknowledges  
18 and agrees that (1) no provision of this agreement, and no written communication or disclosure  
19 between or among the parties or their attorneys and other advisers, is or was intended to be, nor shall  
20 any such communication or disclosure constitute or be construed or be relied upon as, tax advice  
21 within the meaning of united states treasury department circular 230 (31 CFR part 10, as amended);  
22 (2) the acknowledging party (a) has relied exclusively upon his or its own, independent legal and tax  
23 counsel for advice (including tax advice) in connection with this agreement, (b) has not entered into  
24 this agreement based upon the recommendation of any other party or any attorney or advisor to any  
25 other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or  
26 adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party;  
27 and (3) no attorney or adviser to any other party has imposed any limitation that protects the  
28 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such

1 limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax  
2 structure of any transaction, including any transaction contemplated by this agreement.

## 3 ARTICLE VI

### 4 LIMITATIONS ON USE OF THIS SETTLEMENT

#### 5 **Section 6.01: No Admission**

6 Defendant denies that Defendant has engaged in any unlawful activity, that Defendant failed  
7 to comply with the law in any respect, that Defendant has any liability to anyone based upon the  
8 claims asserted in the Action, and Defendant asserts that but for this Settlement a class should not be  
9 certified in this Action. This Agreement is entered into solely for the purpose of compromising  
10 highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission  
11 of liability or wrongdoing by Defendant.

12 Defendant has concluded that any further defense of this litigation would be protracted and  
13 expensive for all Parties. Substantial amounts of time, energy, and resources of Defendant have been  
14 spent and, unless this Settlement is agreed to, will continue to be devoted to the defense of the  
15 Claims asserted by the Class. Defendant has also taken into account the risks of further litigation in  
16 reaching this decision. Defendant has, therefore, agreed to settle in the manner and upon the terms  
17 set forth in this Agreement to put to rest the Claims as set forth in the Action.

18 As to the claims and allegations in this Action, including but not limited to wage claims,  
19 meal and rest period claims, overtime pay claims, minimum wage claims, claims for uncompensated  
20 work time, wage statement claims, claims for waiting time penalties, unfair business practices  
21 claims, claims for reimbursement of business expenses, and claims for PAGA penalties, Defendant  
22 denies and continues to deny each of those claims and contentions alleged by Representative  
23 Plaintiff and the Class in the Action. Defendant has repeatedly asserted and continues to assert  
24 defenses thereto, and has expressly denied and continues to deny any wrongdoing or legal liability  
25 arising out of any of the facts or conduct alleged in the Action.

#### 26 **Section 6.02: Non-Evidentiary Use**

27 Whether or not the settlement becomes final, neither this Agreement nor any of its terms nor  
28 the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or

1 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,  
2 including but not limited to, evidence of a presumption, concession, indication, or admission by any  
3 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b)  
4 disclosed, referred to, or offered in evidence against any of the Released Parties in any further  
5 proceeding in the Action, or any other civil, criminal, or administrative action or proceeding except  
6 for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to  
7 establish that a Class Member has resolved any of his/her claims released through this Agreement.

8 **Section 6.03: Nullification**

9 The Parties have agreed to the certification of the Class for the sole purpose of effectuating  
10 this Agreement. If (a) the Court should for any reason fail to certify a class for settlement, or (b) the  
11 Court should for any reason fail to approve this Settlement in the form agreed to by the Parties  
12 (except for the amount of attorney’s fees, costs and Service Awards awarded), or (c) the Court  
13 should for any reason fail to enter the Final Order, or (d) the Final Order is reversed, modified, or  
14 declared or rendered void, then (i) this Agreement shall be considered null and void; (ii) neither this  
15 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all  
16 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had  
17 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to  
18 stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be  
19 admissible in connection with, the issue of whether a class should be certified in a non-settlement  
20 context in this Action or any other action, and in any of those events, Defendant expressly reserves  
21 the right to oppose any motion for class certification.

22 Invalidation of any material portion of this Agreement, except for the amount of attorney’s  
23 fees, costs and Service Award, shall invalidate this Agreement in its entirety unless the Parties shall  
24 subsequently agree in writing that the remaining provisions shall remain in full force and effect.

25 **ARTICLE VII**

26 **RELEASES**

27 **Section 7.01: Releases by Class Members**

28 On the Final Effective Date, the Final Settlement Class shall be bound by this Agreement.

1                   **Section 7.02: Release of All Claims Relating To The Action**

2                   Upon the court's final approval of the class settlement and entry of Final Order and  
3 Judgment, each member of the Final Settlement Class shall be deemed to have released and  
4 discharged each Defendant and all of its former and present parents, and affiliates, and their officers,  
5 directors, employees, partners, shareholders, attorneys, and agents, and any other successors, assigns  
6 or legal representatives from any and all claims that were asserted and that could have been asserted  
7 based on the facts contained in the Complaint filed in this Action and which were included leading  
8 up to and during mediation, including without limitation to, any and all alleged claims for unpaid  
9 wages, unpaid minimum wages, unpaid overtime, regular rate compensation, unpaid meal or rest  
10 break premiums, itemized wage statement penalties, unreimbursed business expenses, failure to  
11 provide requisite writings, waiting time penalties under the California Labor Code and Business &  
12 Professions Code (including Section 17200 et seq.); claims for penalties brought under the Labor  
13 Code Private Attorneys General Act of 2004 (Labor Code Section 2698 *et seq.*); claims for  
14 restitution and other equitable relief, liquidated damages, or penalties in their positions as Settlement  
15 Class Members during the Class Period.

16                   The Final Settlement Class acknowledges that it may hereafter discover claims presently  
17 unknown and unsuspected, or facts in addition to or different from those which they now know or  
18 believe to be true with respect to claims released herein. Nevertheless, Final Settlement Class  
19 members acknowledge that a portion of the consideration received herein is for a release with  
20 respect to unknown damages and complaints, whether resulting from known injuries and  
21 consequences or from unknown injuries or unknown consequences, and agree that it is their  
22 intention to fully, finally, and forever to settle and release all matters and all claims that exist,  
23 hereafter may exist, or might have existed based on the facts and allegations set forth in the  
24 Complaint.

25                   Final Settlement Class Members who cash or deposit their Individual Settlement Payment  
26 checks will also release their Class Claims.

27                   **Section 7.03: 1542 Release By Kaneisha Kingsbury**

1           In addition to the Settlement Class Members' Released Class Claims described above, in  
2 exchange for the consideration recited in this Agreement, including but not limited to the court-  
3 approved Class Representative Service Award, Kingsbury enters into a Complete and General  
4 Release which releases, acquits, and discharges any covenants not to sue any of the Releasees for  
5 any claim, whether known or unknown, which Kingsbury has ever had, or hereafter may claim to  
6 have, arising on or before the date that she signs this Agreement, including without limitation to, any  
7 claims relating to or arising out of any aspect of her employment, or the termination of her  
8 employment, with Defendant, any claims for unpaid compensation, wages, reimbursement for  
9 business expenses, penalties, or waiting time penalties under the California Labor Code, the  
10 California Business and Professions Code, the federal Fair Labor Standards Act, 29 U.S.C. section  
11 201, *et seq.*, or any federal, state, county or city law or ordinance regarding wages or compensation;  
12 any claims for employee benefits, including without limitation, any claims under the Employee  
13 Retirement Income Security Act of 1974; any claims of employment discrimination on any basis,  
14 including without limitation, any claims under Title VII of the Civil Rights Act of 1964, the Civil  
15 Rights Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans with  
16 Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California Government  
17 Code, or any other federal, state, county or city law or ordinance regarding employment  
18 discrimination. Kingsbury acknowledges and agrees that the foregoing general release is given in  
19 exchange for the consideration provided to her under this Agreement by Defendant. However, this  
20 release shall not apply to claims for workers' compensation benefits, unemployment insurance  
21 benefits, pension or retirement benefits, or any other claim or right that as a matter of law cannot be  
22 waived or released.

23           Kingsbury expressly waives any rights or benefits available to her under the provisions of  
24 Section 1542 of the California Civil Code, which provides as follows:

25           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR  
26           RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
27           FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY  
28

1 HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER  
2 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

3 Kingsbury understands fully the statutory language of Civil Code section 1542 and, with this  
4 understanding, nevertheless elects to, and does, assume all risks for claims that have arisen, whether  
5 known or unknown, which she ever had, or hereafter may claim to have, arising on or before the date  
6 of her signature to this Agreement, and specifically waives all rights she may have under California  
7 Civil Code section 1542.

8 **ARTICLE VIII**

9 **STIPULATION FOR LEAVE TO FILE SECOND AMENDED CLASS AND**  
10 **REPRESENTATIVE ACTION COMPLAINT**

11 The Parties stipulate to Plaintiff being afforded leave to file a Second Amended Class and  
12 Representative Action Complaint (attached hereto as Exhibit "B"). The Second Amended Class and  
13 Representative Action Complaint will include a cause of action for civil penalties pursuant to the  
14 PAGA, as well as remove Sterling BV, Inc. as a defendant (while simultaneously dismissing Sterling  
15 BV, Inc. from the action).

16 **ARTICLE VIII**

17 **MISCELLANEOUS PROVISIONS**

18 **Section 8.01: Amendments or Modification**

19 The terms and provisions of this Agreement may be amended or modified only by an express  
20 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

21 **Section 8.02: Representations and Warranties of Defendant's Records**

22 Defendant represents and warrants that the documents provided to Class Counsel during and  
23 after mediation that constituted a material condition to this Settlement are substantially accurate to  
24 the best of their knowledge.

25 **Section 8.03: Assignment**

26 None of the rights, commitments, or obligations recognized under this Agreement may be  
27 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express  
28 written consent of each other Party and their respective counsel. The representations, warranties,  
29 covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under

1 this Agreement and shall not be construed to confer any right or to avail any remedy to any other  
2 person.

3 **Section 8.04: Governing Law**

4 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties  
5 shall be determined, in accordance with the laws of the State of California, irrespective of the State  
6 of California's choice of law principles.

7 **Section 8.05: Entire Agreement**

8 This Agreement, including the Exhibit referred to herein, which forms an integral part hereof,  
9 contains the entire understanding of the Parties hereto with respect of the subject matter contained  
10 herein. In case of any conflict between text contained in Articles I through VI of this Agreement and  
11 text contained in the Exhibit to this Agreement, the former (*i.e.*, Articles I through VI) shall be  
12 controlling. There are no restrictions, promises, representations, warranties, covenants, or  
13 undertakings governing the subject matter of this Agreement other than those expressly set forth or  
14 referred to herein. This Agreement supersedes all prior agreements and understandings among the  
15 Parties hereto with respect to the settlement of the Action including correspondence between Class  
16 Counsel and Defense Counsel. No rights hereunder may be waived except in writing.

17 **Section 8.06: Counterparts and Fax Signatures**

18 This Agreement, and any amendments hereto, may be executed in any number of  
19 counterparts and any Party and/or their respective counsel hereto may execute any such counterpart,  
20 each of which when executed and delivered shall be deemed to be an original and all of which  
21 counterparts taken together shall constitute one instrument. It shall not be necessary in making proof  
22 of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.  
23 A fax or electronic signature on this Agreement shall be as valid as an original signature.

24 **Section 8.07: Meet and Confer Regarding Disputes**

25 Should any dispute arise among the Parties or their respective counsel regarding the  
26 implementation or interpretation of this Agreement, a representative of Class Counsel and a  
27 representative of Defense Counsel shall meet and confer in good faith in an attempt to resolve such  
28 disputes prior to submitting such disputes to the Court.



1           **Section 8.08: Agreement Binding on Successors**

2           This Agreement shall be binding upon, and inure to the benefit of, the successors in interest  
3 of each of the Parties.

4           **Section 8.09: Cooperation in Drafting**

5           The Parties have cooperated in the negotiation and preparation of this Agreement. This  
6 Agreement shall not be construed against any Party on the basis that the Party, or the Party's  
7 counsel, was the drafter or participated in the drafting of this Agreement.

8           **Section 8.10: Fair Settlement**

9           Representative Plaintiff, Defendant, Class Counsel, and Defense Counsel have arrived at this  
10 Agreement through arm's-length negotiation and believe that this Agreement reflects a fair,  
11 reasonable, and adequate settlement of the Action considering all relevant factors, current and  
12 potential, and believe the Agreement is consistent with public policy and fully complies with  
13 applicable provisions of law.

14           **Section 8.11: Headings**

15           The descriptive heading of any section or paragraph of this Agreement is inserted for  
16 convenience of reference only and does not constitute a part of this Agreement and shall not be  
17 considered in interpreting this Agreement.

18           **Section 8.12: Notice**

19           All notices, demands, or other communications given under this Agreement shall be in  
20 writing and deemed to have been duly given as of the third business day after mailing by first-class  
21 United States mail, addressed as follows:

22           *To Representative Plaintiff and the Class:*

23           Justin F. Marquez  
24           justin@wilshirelawfirm.com  
25           Benjamin H. Haber  
26           benjamin@wilshirelawfirm.com  
27           Arrash T. Fattahi  
28           afattahi@wilshirelawfirm.com  
            Wilshire Law Firm  
            3055 Wilshire Blvd., 12th Floor  
            Los Angeles, CA 90010  
            Telephone: (213) 381-9988

1 Facsimile: (213) 381-9989

2 *To Defendant:*

3 Lindsay E. Hutner  
4 hutnerl@gtlaw.com  
5 Sam Hyde  
6 hydes@gtlaw.com  
7 Greenberg Traurig, LLP  
8 101 Second Street, Suite 2200  
9 San Francisco, CA 94105  
10 Telephone: (415) 655-1300  
11 Facsimile: (415) 707-2010

12 **Section 8.13: Enforcement and Continuing Jurisdiction of the Court**

13 To the extent consistent with class action procedure, this Agreement shall be enforceable by  
14 the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain  
15 continuing jurisdiction over this Action and over all Parties and Class Members to the fullest extent  
16 to enforce and effectuate the terms and intent of this Agreement.

17 **Section 8.14: Mutual Full Cooperation**

18 The Parties agree to fully cooperate with each other to accomplish the terms of this  
19 Agreement, including but not limited to execution of such documents, and to take such other action  
20 as may reasonably be necessary to implement the terms of this Agreement. The Parties to this  
21 Agreement shall use their best efforts, including all efforts contemplated by this Agreement, to  
22 effectuate this Agreement and the terms set forth herein. In the event the Parties are unable to reach  
23 agreement on the form or content of any document needed to implement the Settlement, or on any  
24 supplemental provisions that may become necessary to effectuate the terms of the Settlement, the  
25 Parties agree to seek the assistance of the Court.

26 **Section 8.15: Authorization to Act**

27 Class Counsel warrant and represent that they are authorized by the Representative Plaintiff,  
28 and Defense Counsel warrant that they are authorized by Defendant, to take all appropriate action  
required to effectuate the terms of this Agreement, except for signing the documents, including but  
not limited to this Agreement, that are required to be signed by the Parties.

1           **Section 8.16: No Reliance on Representations**

2           The Parties have made such investigation of the facts and the law pertaining to the matters  
3 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,  
4 on any statement, promise, or representation of fact or law, made by any of the other Parties, or any  
5 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted  
6 rights, or with regard to the advisability of making and executing this Agreement, or with respect to  
7 any such matters. No representations, warranties, or inducements have been made to any Party  
8 concerning this Agreement other than those expressly set forth or referred to herein.

9           **Section 8.17: No Collateral Attack**

10          This Agreement shall not be subject to collateral attack by any Class Member or any  
11 recipient of the Class Notice after the Final Effective Date. Such prohibited collateral attacks shall  
12 include but not be limited to claims that the Class Member failed for any reason to receive timely  
13 notice of the procedure for disputing the calculation of his or her Individual Settlement Payment.

14          **Section 8.18: No Public Comment/Non-Disparagement Clause**

15          Representative Plaintiff and Class Counsel will not make any public disclosure of the  
16 settlement terms until after the settlement is preliminarily approved by the Court. Class Counsel will  
17 take all steps necessary to ensure Representative Plaintiff is aware of, and will encourage her to  
18 adhere to, the restriction against any public disclosure of the settlement terms until after the  
19 settlement is preliminarily approved by the Court. None of these prohibitions on public comment  
20 shall prohibit Class Counsel's communications with the Court as necessary to finalize the settlement.

21          Representative Plaintiff and Defendant represent and agree that they have not and will not  
22 directly or indirectly disparage, encourage, assist, or induce others to disparage the other Party. For  
23 the purposes of this Agreement, "disparage" shall include making or publishing any statement or  
24 other content, whether in written, oral, electronic, digital or other form, truthful or otherwise, which  
25 may reasonably be expected to adversely affect the business, public image, reputation or goodwill of  
26 the other Party, including, without limitation, their operations, employees, directors or related  
27 persons, and their past, present or future products or services and the facts relating to Representative  
28 Plaintiff's past employment.

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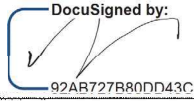
**Section 8.19: Interim Stay of Proceedings**

The Parties agree to the Court staying and holding all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, in abeyance pending the Settlement Hearing to be conducted by the Court.

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**EXECUTION BY PARTIES AND COUNSEL**

Dated: August 17, 2022



Kaneisha Kingsbury, Representative Plaintiff

Dated: August 17, 2022

By:  
For Defendant Caravan Foods II, Inc.

**APPROVED AS TO FORM AND CONTENT:**

Dated: August 17, 2022

Justin F. Marquez  
Benjamin H. Haber  
Arrash T. Fattahi  
Wilshire Law Firm  
Attorneys for Representative Plaintiff

Dated: August 18, 2022

Lindsay E. Hutner  
Sam Hyde  
Greenberg Traurig, LLP  
Attorneys for Defendant