

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (“Settlement Agreement,” “Settlement” or “Agreement”), is entered into by and between Plaintiffs Flossie Fuegos and Lorena Pegueros (“Plaintiffs”) on behalf of themselves and on behalf of the class members, described below, and Lompoc Investments Inc., and Shaileshkumar Mangalbhai Patel (collectively “Lompoc”) (collectively Plaintiffs’ and Lompoc are referred to herein as the “Parties”). This Agreement is intended to fully, finally and forever resolve, discharge and settle the Released Claims, as defined below, upon and subject to the terms and conditions of this Agreement.

I. RECITALS

A. WHEREAS, on July 19, 2019, a putative class action entitled *Flossie Fuegos, individually, Lorena Pegueros, individually, and on behalf of others similarly situated v. Lompoc Investments, Inc., et. al.*, Case No. 19CV03774 [“the Action”] was filed in the Santa Barbara County Superior Court, County of Santa Barbara.

B. WHEREAS, on August 28, 2020, the Parties reached an agreement in principle on settlement that is intended to fully and finally resolve all claims as to all “Class Members,” described below, in the Class Action.

C. WHEREAS, the “Class Members” in the Action consist of the following persons: All current and former non-exempt, hourly employees employed in California by Defendants from May 26, 2017 through the date of preliminary approval of the class action settlement.

D. WHEREAS, the Plaintiffs on behalf of themselves and all Class Members have alleged that Defendants violated the California Labor Code, California Industrial Welfare Commission Wage Orders and California Unfair Competition Law by failing to pay minimum wages, failing to pay overtime wages, failing to provide meal and rest breaks, failing to provide wage premiums for missed meal and rest breaks, failing to maintain records, failing to maintain accurate pay stubs, failing to pay all wages earned, failing to timely pay all wages upon termination, violation of Business and Professions Code § 17200 *et seq.*, and penalties pursuant to Labor Code section 2699, *et seq.*

E. WHEREAS, Defendants deny all allegations of violations of the California Labor Code, California Industrial Welfare Commission Wage Orders and California Unfair Competition Law as well as all material allegations contained within the Action.

NOW, THEREFORE, the Parties agree as follows:

II. DEFINITIONS

A. “Action” refers to the action identified in the Recitals above, which is currently pending in the Superior Court of Santa Barbara County.

B. “Claims Administrator” refers to CPT Group, Inc., or such other entity upon whom the Parties mutually agree and which will handle the administration of the settlement set forth in this Agreement.

C. “Class Counsel” refers to Ronald W. Makarem and Cameron A. Stewart of Makarem & Associates APLC.

D. “Class Notice” refers to the Notice substantially in the form of Exhibit A hereto, as it may hereafter be modified by agreement of the Parties or order of the Court.

E. “Class Period” refers to the period from May 26, 2017 to the date when the Court grants and enters the Preliminary Approval Order.

F. “Court” refers to the court having jurisdiction over the Action, at any stage of the Action, presently the Superior Court of Santa Barbara County.

G. “Defendants’ Counsel” refers to Derek J. Haynes, Barakah M. Amaral of Porter Scott.

H. “Exclusion Period” refers to the interval beginning with the date the Class Notice is first mailed to Settlement Class members and ending 45 days after the date of first mailing. If a second mailing to any Putative Class Member is required as a result of the initial mailing being returned as undeliverable, the Exclusion Period for those Class Members only, who shall be sent a second mailing, will be extended for 15 days (60 days from first mailing) irrespective of when the first mailing was returned as undeliverable.

I. “Final Approval Order” refers to the order of the Court granting final approval of this settlement as to the Final Settlement Class (defined below) and entering a judgment approving this settlement on substantially the terms provided herein or as the same may be modified by subsequent agreement of the Parties.

J. “Final Settlement Class” refers to all members of the Settlement Class who do not timely and validly exclude themselves from the class in compliance with the exclusion procedures set forth in this Agreement and the Class Notice.

K. “Final Effective Date”

1. “Final Effective Date” means:

a. Ten (10) days after the Court enters the Final Approval Order and Judgment if no objections to the Settlement are timely filed;

b. If objections to the Settlement are filed and no appeal is timely filed, then 65 days after entry of the trial court’s Final Approval Order and Judgment in the Action; or

c. If there is an appeal of the trial court’s Final Approval Order and

Judgment, including any appeal of an award of attorneys' fees or the enhancement payment to the Named Plaintiffs, then the date of final affirmance of the Judgment on an appeal, the date of dismissal of such appeal, the expiration of the time for a petition for review of such appeal by the California Supreme Court of the Judgment, and, if review is granted, the date of final affirmance of that Judgment following review pursuant to that grant; or if remanded to the Superior Court, the date the final Judgment is entered by the Superior Court after remand and the time to appeal or seek permission to appeal or seek other judicial review of the entry of that final Judgment has expired with no further appeal or other judicial review having been taken or sought. If further appeal is sought after a remand, the time periods concerning an appeal or other judicial review in this Section shall apply; or

L. "Judgment" refers to the judgment entered by the Court in conjunction with the Final Approval Order.

M. "Maximum Distributable Amount" shall be the amount as determined under Section IX(A)(5) below.

N. "Maximum Settlement Amount" shall be One Hundred Forty Thousand Dollars (\$140,000) and shall consist of all payments contemplated by this Agreement, including the following elements: Attorneys' fees and costs of Class Counsel as provided in this Agreement and approved by the Court, payments to Settlement Class members as described in this Agreement (including the employers' portion of payroll taxes (such as FICA, FUTA and any other state and local taxes required as a result of such payments), an enhancement award to Named Plaintiffs as approved by the Court, civil penalties payable to the Labor and Workforce Development Agency ("LWDA") and Settlement Class members pursuant to Private Attorneys General Act ("PAGA") as described in this Agreement and the costs and fees of the Claims Administrator.

O. "Named Plaintiffs" refers to Flossie Fuegos and Lorena Pugueros.

P. "Parties" refer to the Named Plaintiffs and Defendants.

Q. "Preliminary Approval Order" refers to the order of the Court granting preliminary approval of the Settlement set forth herein.

R. "Settlement Class" refers to all persons who are members of the following category: All non-exempt, hourly employees employed in California by Defendants from May 26, 2017 to the date when the Court grants and enters the Preliminary Approval Order.

S. "Settlement Share" refers to the payment to which a qualifying Final Settlement Class member becomes entitled pursuant to this Settlement, as set forth in more detail in Section IX(B)(2) below.

III. APPLICATION FOR COURT APPROVAL OF SETTLEMENT, CLASS CERTIFICATION CLASS NOTICE AND FINAL APPROVAL HEARING

Promptly upon the full execution of this Agreement, Plaintiff shall apply to the Court for approval of the Settlement, including a Preliminary Approval Order preliminarily approving the Settlement Agreement under the legal standards relating to the preliminary approval of class action settlements; certifying the Settlement Class for settlement purposes only; approving the Class Notice as attached hereto as Exhibit A; and setting a final approval hearing and briefing schedule. Should this Settlement not become effective for any reason, the fact that the Parties stipulated to certification of a Settlement Class in this Agreement shall have no bearing on and not be admissible on the question of whether a class should be certified in a non-settlement context.

IV. CLAIMS ADMINISTRATION

A. Engagement of Claims Administrator: Promptly upon entry of the Preliminary Approval Order (if not sooner), the Plaintiff shall engage the Claims Administrator. As more fully set forth in Section IX below, the Claims Administrator's reasonable fees, estimated not to exceed \$8,500, shall be paid to the Claims Administrator out of the Maximum Settlement Amount; provided, however, that under no circumstances shall Defendants' total obligation under this Settlement exceed the Maximum Settlement Amount, including the Claims Administrator's fees.

B. Duties of Claims Administrator: The Claims Administrator shall be solely responsible for:

- i) Preparing, printing and disseminating to Settlement Class members the Class Notice;
- ii) Promptly furnishing to counsel for the Parties copies of any requests for exclusion, objections or other written or electronic communications from Settlement Class members which the Claims Administrator receives;
- iii) Determining and distributing the Settlement Share of each qualifying Final Settlement Class member in accordance with this Agreement;
- iv) Keeping track of requests for exclusion, including maintaining the original mailing envelope in which the request was mailed;
- v) Preparing and mailing, in accordance with this Agreement and Order of the Court, Class Counsel's attorneys' fees and costs, the Named Plaintiff's enhancement award, and the Settlement Share to Final Settlement Class members;
- vi) Ascertaining current address and addressee information for each Class Notice returned as undeliverable and re-mailing the Class Notice where appropriate as set forth in Section V(B) below;

- vii) Performing all tax reporting duties required by federal, state or local law pertaining to the Claims Administrator's duties as set forth in Section IV(B)(iii) and (v) above (e.g., 1099s, W-2s, etc.);
- viii) Referring to Class Counsel all inquiries by Settlement Class members regarding matters not within the Claims Administrator's duties specified herein;
- ix) Apprising counsel for the Parties of the activities of the Claims Administrator;
- x) Maintaining adequate records of its activities, including the dates of mailing of Class Notices, returned mail and other communications and attempted written or electronic communications with Settlement Class members;
- xi) Confirming with Class Counsel and Defendants' Counsel, in writing, its completion of the administration of the Settlement;
- xii) Preparing a final report summarizing the number of claims, requests for exclusion and disputes filed;
- xiii) Resolving disputes during the claims administration process in the manner provided under Section IV(C) below; and
- xiv) Such other tasks as the Parties mutually agree.

C. Dispute Resolution: The Claims Administrator will have the initial responsibility for resolving all disputes that arise during the claims administration process, including, without limitation, disputes regarding whether an employee is entitled to a Settlement Share and, if so, to what extent. In resolving such disputes, Defendants' employment records shall be presumed to be accurate and correct, and shall be final and binding, unless the information submitted by the Settlement Class member (e.g., time records, paystubs, employment records, termination notice, final pay information, etc.) proves otherwise. In the event the Claims Administrator cannot resolve a dispute based on a review of the available information, the Claims Administrator will request a conference call between the Claims Administrator, Class Counsel and Defendants' Counsel to discuss and resolve the dispute. After such call, the Claims Administrator will resolve the dispute and such resolution shall be final and binding on the Settlement Class member.

V. CLASS NOTICE

A. Initial Identification of Settlement Class Members: Within 20 business days after the Court grants Preliminary Approval, Defendants will provide the Claims Administrator with a confidential list containing the name, last known address, last known telephone number and social security number of each member of the Settlement Class. In addition, Defendants will

provide the total workweeks worked during the Class Period of each Settlement Class member. Any week in which a Settlement Class member worked at least one shift will count as a workweek. This information shall be treated as confidential.

B. Mailing of Class Notice: Promptly upon receipt of the Settlement Class member information from Defendants, the Claims Administrator shall obtain updated forwarding addresses from the U.S. Postal Service. Within ten (10) business days after receipt of the class member information identified in Section V(A) above, the Claims Administrator shall mail the Class Notice to all Settlement Class members via first-class mail using the updated address information. With respect to each Class Notice which is returned as undeliverable before the end of the Exclusion Period, the Claims Administrator shall promptly attempt to determine a correct address using its best efforts to locate the Settlement Class members and shall re-send the Class Notice via first-class mail to any new address thereby determined.

C. Participation in the Settlement: Settlement Class members are not required to file claims to be eligible to recover their Settlement Share. All Class Members shall be paid their Settlement Share unless they timely request exclusion from the Settlement Class. Settlement Share amounts shall be determined from Defendants' records which shall be provided, in electronic form, to the Claims Administrator.

D. Challenges to Calculations and Inclusion in the Settlement Class: A Participating Class Member may dispute the amount of his or her settlement payment, and the data used to calculate the settlement payment, by timely sending written notice to the Claims Administrator informing the Claims Administrator of the nature of the dispute and providing any records or documentation supporting the Settlement Class member's position. In response to such a dispute, Defendants will first verify the information contained in Defendants' records. Class Counsel and Defendants' Counsel will then make a good faith effort to resolve the dispute informally. If counsel for the Parties cannot agree, the dispute shall be resolved by the Claims Administrator, who shall examine the records provided by Defendants and the Settlement Class member. The Claims Administrator's determination regarding any such dispute shall be final. A dispute regarding the settlement payment or the underlying data used to calculate the settlement payment shall be considered timely if received by the Claims Administrator postmarked within forty-five (45) days of the Class Notice being mailed.

In the event that an individual not previously identified as a member of the Settlement Class provided to the Claims Administrator (a "Non-Disclosed Potential Class Member") asserts his/her right to membership in the Settlement Class and seeks recovery under the Settlement, the Claims Administrator shall provide all counsel with the evidence (as described below) provided by the Non-Disclosed Potential Class Member. To be eligible for recovery under this Settlement Agreement, each Non-Disclosed Potential Class Member must provide acceptable proof (documentation or declaration(s)) to the Claims Administrator supporting his/her request for inclusion in the Settlement Class, including specific evidence establishing that he/she was a non-exempt, hourly employee employed by Defendants in California during the Class Period). If the Parties agree that a Non-Disclosed Potential Class Member should be treated as a member of the Settlement Class, the Claims Administrator will issue his/her settlement payment from the Maximum Distributable Amount. To determine the amount of the Settlement Share for any

Non-Disclosed Potential Class Member who becomes a member of the Settlement Class, the Claims Administrator will utilize the formula used to calculate the Class Member's Share. To provide for potentially accepted Non-Disclosed Potential Class Members into the Settlement Class, the Claims Administrator will withhold one percent (1%) of the Maximum Distributable Amount when initially providing anticipated Settlement Share amounts to members of the Settlement Class. Any portion of this one percent (1%) that is not distributed to Non-Disclosed Potential Class Members shall be returned to the Maximum Distributable Amount and distributed to Final Settlement Class members as set forth in Section IX below.

If Defendants disagree with Class Counsel that any Non-Disclosed Potential Class Member is, in fact, a Class Member, the Parties agree that the Claims Administrator will resolve the issue based solely upon written submissions by each Party. If both Class Counsel and Defendants jointly agree that the Non-Disclosed Potential Class Member is not a member of the Settlement Class, the Claims Administrator will not be involved and the Claims Administrator is authorized to notify the Non-Disclosed Potential Class Member that his/her request for inclusion in the Settlement Class has been rejected. If the Non-Disclosed Potential Class Member is either agreed, or determined, to be a Settlement Class Member, the Claims Administrator will pay the individual his/her settlement payment within ten (10) calendar days, or upon payment of proceeds to all Settlement Class members, if such distribution has not yet occurred.

VI. BINDING EFFECT; EXCLUSION AND OBJECTION RIGHTS

A. Right of Settlement Class Members to be Excluded: Any Settlement Class member, other than the Named Plaintiffs, may elect to be excluded from the Settlement Class at any time during the Exclusion Period. To be effective, any such election must be made in writing; must contain the name, address and telephone number of the individual requesting exclusion; must be signed by the individual who is electing to be excluded; and must be mailed to the Claims Administrator and postmarked on or before the end of the Exclusion Period. The date of the postmark on the mailing envelope shall be the exclusive means to determine whether a request for exclusion is timely. Any Settlement Class member who timely requests exclusion in compliance with these requirements: (i) shall not have any rights under this Agreement; (ii) shall not be entitled to receive a Settlement Share; and (iii) shall not be bound by this Agreement, the Final Approval Order or Judgment.

B. Binding Effect on Final Settlement Class Members: Except for those Settlement Class members who exclude themselves in compliance with the procedures set forth above, all Settlement Class members will be deemed to be members of the Final Settlement Class for all purposes under this Agreement; will be bound by the terms and conditions of this Agreement, the Final Approval Order, the Judgment and the releases set forth herein; and, except as provided in Section VI(C) below, will be deemed to have waived all objections and opposition to the fairness, reasonableness and adequacy of the settlement.

C. Right to Object: Any Final Settlement Class member, other than the Named Plaintiffs, may object to this Settlement, provided that such objection is made in writing and mailed to the Claims Administrator so that it is postmarked no later than the last day of the Exclusion Period. Such objection shall include the name and address of the objector, dates of

employment and basis for any objection and, if the objector is represented by counsel, the name and address of the objector's counsel. The Claims Administrator will email a copy of any objections received to all counsel within 48 hours of its receipt of the same. Counsel will then promptly submit any objections they receive to the Court. No Final Settlement Class member may be heard at the Final Settlement Hearing who has not complied with this requirement, and any Final Settlement Class member who fails to comply with this requirement will be deemed to have waived any right to object and any objection to the Settlement.

D. Communication Between Counsel regarding Objections and Extensions: Upon receipt, counsel for the Parties shall promptly exchange with one another copies of all objections, exclusions and/or challenges to the Settlement or to any part thereof. Class Counsel and Counsel for Defendants shall file any responses to any written objections submitted to the Court in accordance with this Settlement Agreement at least five (5) days before the final fairness and approval hearing.

E. Prohibition on Filing Complaints or Proceedings Pending Final Approval: From the date of entry of the Preliminary Approval Order through the date of the final approval hearing, Settlement Class members, including the Named Plaintiffs, who do not exclude themselves from the Settlement Class shall be prohibited from receiving any monetary recovery from a complaint or charge of any kind filed with the California Division of Labor Standards Enforcement or from initiating any lawsuit or other legal proceeding regarding any of the Released Claims as defined in Section X below.

F. Covenant Not to Sue or Participate in Any Other Action: Subject to the Court's granting final approval, any Settlement Class member who does not exclude him or herself from the Settlement in compliance with the procedures set forth above shall be forever barred from filing any other action or proceeding or participating either as a named plaintiff or as an unnamed class member in any other lawsuit or class action in any state or federal court or administrative tribunal as permitted by law regarding any of the Released Claims as defined in Section X below.

VII. FINAL SETTLEMENT APPROVAL

A hearing shall be held for the purpose of obtaining the Final Approval Order and entry of Judgment approving this Settlement Agreement and releasing the claims of the Final Settlement Class. The date of the hearing shall be set by the Court and notice of such shall be provided to Class Members in the Class Notice, although such hearing may be continued by the Court without further notice to Class Members.

On the date set forth for the final fairness and approval hearing in the Order granting preliminary approval of the settlement, which shall be approximately one hundred and five (105) days, subject to the Court's calendar, after the Court grants preliminary approval of this Settlement, a final fairness and approval hearing shall be held before the Court in order to consider and determine whether (i) the Court should give final approval to this Settlement; (ii) Plaintiff's application for an Enhancement Award should be granted; (iii) Class Counsel's

application for attorneys' fees and expenses should be granted; and (iv) any timely objections made have merit and to consider all responses by Class Counsel and Counsel for Defendants.

Upon final approval of the Settlement by the Court, the Parties request that the Court enter an order and Judgment as follows:

1. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
2. Approving Class Counsel's application for an award of attorneys' fees and costs;
3. Approving the Enhancement Award to the Class Representatives; and
4. Entering final judgment, permanently barring and enjoining all members of the Settlement Class from prosecuting against Defendants, and their past, present and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint ventures, affiliated organizations, insurers, re-insurers and assigns, and each of their past, present and future officers, directors, trustees, agents, employees, attorneys, contractors, representatives, partners, joint ventures, benefit plans sponsored or administered by Defendants, divisions, units, branches and other persons or entities acting on their behalf, and any individual or class claim released herein pursuant to Section X(A) of this Agreement, upon satisfaction of all payments and obligations hereunder.

Following entry of final judgment and Defendants' satisfaction of their payment obligations, and upon Defendants' request, Class Counsel will execute and file an acknowledgment that Defendants have satisfied the payment obligations under the Settlement Agreement.

1Final Accounting. No later than 30 calendar days after the Final Effective Date, the distribution of all settlement checks referenced herein, and the provision of any un-claimed funds to an entity to be determined by the Parties, the Claims Administrator shall serve on the Parties for filing with the Court a final accounting, executed under penalty of perjury, of all monies paid from the Maximum Distributable Amount.

VIII. SETTLEMENT TERMINATION

A. Grounds for Settlement Termination: In accordance with the procedures specified in Section VIII(B) below, this Agreement may be terminated on the following grounds:

1. Any Party may terminate the Agreement if the Court declines to enter the Preliminary Approval Order (incidental or minor changes to the Settlement Class or Class Notice ordered by the Court are not grounds for termination), Final Approval Order or Judgment in substantially the form submitted by the Parties or the settlement as agreed does not become final for any other reason.

Recovery of attorneys' fees and costs by Class Counsel and an enhancement award to the Named Plaintiffs are terms of this Agreement, but the allowance or disallowance by the Court of an award of attorneys' fees and/or costs and/or the enhancement award to the Named Plaintiffs are not part of this Settlement, and will be considered by the Court separately from the Court's consideration of the fairness, reasonableness, adequacy and good faith of this Settlement to the Settlement Class.

2. If more than fifteen percent (15%) of the Settlement Class makes a valid request to be excluded from the Settlement Class as described in Section VI above, Defendants will have the right, but not the obligation, to void the Agreement. If Defendants exercise that right to void the Agreement, then the Parties will have no further obligations under the Agreement, including any obligation by Defendants to pay the Maximum Settlement Amount, or any amounts that otherwise would have been owed under this Agreement. Defendants will notify the Court and Class Counsel, in writing via USPS and email, whether they are exercising their right to void the Agreement no later than five (5) days after the Claims Administrator notifies the Parties of the final total number of valid requests to be excluded. Any costs associated with administration of the Settlement that have been incurred by the Claims Administrator prior to Defendants' election to void the Agreement shall be paid by Defendants.

B. Procedures for Termination: In the case of termination pursuant to Section VIII(A)(1) the terminating party shall give written notice to the other Party no later than ten (10) days after the Court acts.

C. Effect of Termination: Valid Termination shall have the following effect:

1. The Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms, except for those in Sections VIII(C), XI, XII and XIII.;

2. The Preliminary Approval Order, Final Approval Order and Judgment, including any order of class certification, shall be vacated;

3. The Settlement Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the Settlement; and

4. Neither this Settlement Agreement, nor filings in furtherance of the settlement shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

IX. SETTLEMENT PAYMENTS

A. Defendants' Settlement Payment Obligations: In full and complete settlement of the Action, subject to this Settlement being approved by the Court and final Judgment being entered, and 10 days after the Final Effective Date, and to satisfy their Maximum Settlement Payment obligation of One Hundred Forty Thousand Dollars (\$140,000), Defendants shall commence two equal installment payments in the amount of Seventy Thousand Dollars

(\$70,000) (to be paid no later than March 31, 2021 (first payment), and March 31, 2022 (second payment)) to the Claims Administrator (the “Settlement Payments”). In the event any scheduled payments are not paid in full or timely paid according to the schedule, Plaintiff will provide written notice to Defendants. If Defendants do not cure by making the scheduled monthly payment within seven (7) days from the date they receive notice, then the remaining amount due will be increased by 150%.

The settlement funds shall be deposited by the Claims Administrator into an interest-bearing account and allocated as follows:

1. Reasonable attorneys’ fees and litigation expenses: Class Counsel may request, without opposition from Defendants, that the Court award them reasonable attorneys’ fees in an aggregate amount up to and including thirty-three and one-third percent (33.33%) of the Maximum Settlement Amount, or \$46,666.66 (of Maximum Settlement Amount). Class Counsel will also ask the Court to award them reasonable litigation expenses and costs incurred in prosecuting the Action, not to exceed Twelve Thousand Five Thousand Dollars (\$12,500). Defendants have agreed not to oppose such requests. The award of reasonable attorneys’ fees and litigation costs granted by the Court will be paid out of the Maximum Settlement Amount. Any award of attorneys’ fees and costs shall include and satisfy all past and future fees and costs incurred to prosecute, settle and administer the Action and this Settlement Agreement, including obtaining the Final Approval Order and Judgment.

2. Reasonable expenses of the Claims Administrator: All costs of administering the Settlement, including, but not limited to, all costs and fees associated with preparing, issuing and mailing any and all notices to the Plaintiff and/or Settlement Class, all costs and fees associated with computing, processing, reviewing and mailing the Settlement Share, all costs and fees pertaining to the Claims Administrator’s duties as set forth in Sections IV(B)(iii) and IV(B)(v) above, including those associated with preparing any tax documents and any other filings required by any governmental taxing authority or agency, all costs and fees associated with preparing any other notices, reports or filings to be prepared in the course of administering disbursements from the Maximum Settlement Amount, and any other costs and fees incurred and/or charged by the Claims Administrator in connection with the execution of its duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Claims Administrator out of the Maximum Settlement Amount in accordance with Section IX. Class Counsel shall receive no fees or disbursements from the Maximum Settlement Amount relating to the administration of disbursements from the Maximum Settlement Amount. Settlement Administration Costs are currently estimated not to exceed \$8,500.

3. Reasonable enhancement award to the Named Plaintiffs: Class Counsel will request that the Court award a reasonable enhancement award of up to a maximum amount of Five Thousand Dollars (\$5,000) to the Named Plaintiffs, to be paid out of the Maximum Settlement Amount, and Defendants have agreed not to oppose this request.

4. PAGA Payment: The Parties agree that Seven Thousand Five Hundred Dollars (\$7,500) of the Maximum Settlement Amount will be allocated to penalties under the Labor Code Private Attorneys General Act of 2004, payable to the LWDA and in consideration

for a full and complete release of any claim that penalties may be owed pursuant to PAGA for alleged violations of the Labor Code that were or could have been asserted in the Action. Seventy-five percent (75%) of the \$7,500 (\$5,625.00) amount will be paid to the LWDA, and the remaining twenty-five percent (25%; \$1,875.00) shall be included in the net settlement distributed to the Settlement Class, and in satisfaction of any claim for penalties that may be owed to that agency under PAGA.

5. Allocations to the Class: The amount remaining from the Maximum Settlement Amount after deducting reasonable attorneys' fees and litigation costs, reasonable claims administration costs, the amount paid to the LWDA as set forth above and a reasonable enhancement payment (the "Maximum Distributable Amount") will be available for distribution to members of the Settlement Class who do not submit a valid and timely request for exclusion, in accordance with the formula set forth in Section IX(B)(2)(a) of the Settlement Agreement. All interest earned on the account opened by the Claims Administrator shall inure to the benefit of the Settlement Class.

6. Uncashed Checks: Any claimed portion of the Maximum Settlement Amount for which a check is issued but not cashed within 120 days of issuance shall be distributed to the State of California Controller's Office Unclaimed Property Fund in the names of the individuals.

B. Payout of Settlement Amounts: The Maximum Settlement Amount shall be distributed as follows:

1. Reasonable Enhancement Award to the Named Plaintiffs. Class Counsel has stated they will seek approval from the Court for a reasonable enhancement award to the Named Plaintiffs in the amount specified in Section IX(A)(3). The payment is in addition to the Named Plaintiffs' Settlement Share to which they may be entitled as a member of the Final Settlement Class. The Named Plaintiffs will receive an IRS Form 1099 for the portion of the settlement distributed to them that represents their enhancement payment. The Named Plaintiffs shall be responsible for properly declaring such income to the appropriate taxing authorities, and for paying any taxes due on such amounts. In exchange for their enhancement award, the Named Plaintiffs will enter into a binding release of all claims.

2. Payments to Class Members.

a. Each member of the Final Settlement Class who did not submit a valid and timely request for exclusion will be paid based on his or her total actual workweeks worked during the Class Period. This amount will be determined by the following formula: First, the Claims Administrator shall reduce the Settlement Amount of \$140,000 by deducting (a) all attorneys' fees, costs and expenses of litigation approved by the Court and awarded to Class Counsel, (b) the enhanced payment to the Named Plaintiffs approved by the Court and awarded to the Named Plaintiffs, (c) payment to the LWDA, (d) all fees to be paid to the Claims Administrator associated with claims administration expenses, and (e) employer payroll taxes. Then, each Final Settlement Class member's individual Settlement Share will be based on a ratio of his or her individual actual workweeks worked during the Class Period to the total actual

workweeks worked by all Final Settlement Class members. Each Final Settlement Class member's Settlement Share ratio will then be multiplied by the Maximum Distributable Amount. The maximum amount paid in settlement, including all of Class Counsel's reasonable attorneys' fees, payment to the LWDA, costs and expenses to be paid to Class Counsel, the enhancement fee for the Named Plaintiffs, employer payroll taxes and the amount paid to the Claims Administrator for claims administration expenses shall not exceed \$140,000.

3. Allocations of Settlement Payments and Taxes. All payments made to the Settlement Class under this Settlement shall be allocated twenty-five percent (25%) to wages, fifty percent (50%) to penalties and twenty-five percent (25%) to interest. Any amounts paid for penalties and interest shall not be subject to tax withholding. Settlement Class members who do not submit a request for exclusion will be issued one check for their Settlement Share. Defendants shall not make as part of this Agreement, nor be required to make any deductions, nor pay any monthly contributions for any insurance, retirement, 401(k) or profit sharing plans related to monies paid as a result of this Settlement Agreement.

4. Timing of Settlement Payments. Payment of the Settlement Share shall be made in accordance with the following:

a. Upon receipt of the two equal installment Settlement Payments from Defendants, the Claims Administrator shall promptly (but no later than three days later) deposit the funds into an interest-bearing bank account, held in escrow for the purpose of effectuating this Settlement. The Parties agree to treat this account as a "Qualified Settlement Fund" pursuant to section 468(13) of the Internal Revenue Code of 1986, as amended, and the Claims Administrator shall treat the Qualified Settlement Fund as the "employer" for purposes of federal and state income and employment tax withholding and reporting with respect to the Settlement Share.

b. After each date following payment of each installment, the Claims Administrator shall issue to each qualifying Final Settlement Class member a check for a portion of his or her Settlement Share (less applicable taxes) via first-class mail. Checks not negotiated within 120 days from their issue date are void and those Final Settlement Class members shall cease to be entitled to a future Settlement Share, but this Agreement and the release herein will nonetheless be binding upon them as if they had cashed their checks. Any unclaimed funds in the Claims Administrator's account as a result of the failure to timely cash Settlement Share checks shall be distributed by the Claims Administrator to the State of California Controller's Office Unclaimed Property Fund in the names of the individuals upon the expiration of the 120 day period for the last such check issued.

c. Class Counsel will advise Defendants and the Claims Administrator as to the amount of attorneys' fees and costs awarded by the Court. Class Counsel shall also advise Defendants and the Claims Administrator as to how the enhancement award shall be paid to the Named Plaintiffs, whether by check sent directly to the Named Plaintiffs or provided to Class Counsel. Within twenty (25) days of the final distribution, the Claims Administrator shall distribute the proportionate fees, costs and enhancement award, and within

twenty-five (25) business days of the final distribution, the Claims Administrator shall make payment to the LWDA provided for in Section IX(A)(4) above as set forth in this Agreement.

C. Taxes. The Parties understand and agree that the Qualified Settlement Fund (“QSF”) will qualify and be characterized as a qualified settlement fund under the provisions of the U.S. Treasury Regulations 1.468B-1 and 1.468B-5, and the QSF will be taxed as a separate entity for purposes of all federal, state and local taxes, and further agree to treat the QSF on a basis consistent therewith, that the QSF will be characterized as the employer of all Settlement Class members for purposes of determining all tax obligations associated with any and all payments under this Settlement, and the QSF will bear full responsibility for all taxes associated with the QSF and the Settlement Share to Settlement Class members under this Agreement.

The Claims Administrator shall be responsible for ensuring that all taxes associated with the Agreement are timely paid to the appropriate authorities. The Claims Administrator’s responsibilities include the following: Performing all tax reporting duties required by federal, state or local law pertaining to the Claims Administrator’s duties as set forth in Sections IV(B) (iii) and (v) above. In addition, the Claims Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph. Such elections shall be made in compliance with the procedures and requirements contained in the QSF regulations. It shall be the responsibility of the Claims Administrator to timely and properly prepare and deliver all necessary documentation for signature as may be required, and thereafter to cause the appropriate filing of such documentation to occur. To the extent that, for any period of time, the QSF is not treated as a “qualified settlement fund” within the meaning of the U.S. Treasury Regulations 1.468B-1 and 1.468B-5, the Claims Administrator shall promptly notify Class Counsel and Counsel for Defendants of that fact.

Each party to this Agreement (for purposes of this Section, the “Acknowledging Party”; and each party to this Agreement other than the Acknowledging Party, an “Other Party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisors, is or was intended to be, nor shall any such communication or disclosure constituted or be construed or be relied upon as, tax advice within the meaning of the United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging Party (a) has relied exclusively upon his, her or its own, independent legal and tax advisors for advice (including tax advice) in connection with this Agreement; (b) has not entered into this Agreement based upon the recommendation of any Other Party or any attorney or advisor to any Other Party; and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any Other Party to avoid any tax penalty that may be imposed on the Acknowledging Party; and (3) no attorney or advisor to any Other Party has imposed any limitation that protects the confidentiality of any such attorneys’ or advisor’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement. Participating Class Members shall indemnify and hold harmless Defendants from any and all actions, claims or demands brought by any tax or other authority based upon Final Settlement Class Members’ tax obligations arising from the payment

to be made pursuant to this Settlement, and shall reimburse Defendants for any taxes, interest and penalties paid by Defendants.

D. Inapplicability of Code of Civil Procedure section 384: The Parties agree that California Code of Civil Procedure section 384 is not applicable to this Settlement Agreement.

E. Additional Contribution by Defendants: The Maximum Settlement Amount is based upon Defendants' representation that the total number of class members at the time of settlement is Fifty-Three (53) during the period from May 26, 2017 to May 27, 2020. To the extent the number of class members increases by more than Fifteen Percent (15%) before the date of notice of class settlement is distributed to the putative class members, Defendants shall be required to increase the Maximum Settlement Amount by the same percentage that the number of class members has increased over and above 15% (i.e., if the number of class members increases by 15% by the date of distribution of notice of class settlement, then Defendants shall increase the Maximum Settlement Amount by 15%). Defendants' monetary obligation under this Agreement is limited to the Maximum Settlement Amount.

X. RELEASE OF CLAIMS; WAIVER; ASSIGNMENT OF RIGHTS

A. Release: Effective as of the Final Effective Date and in exchange for the consideration provided pursuant to this Agreement, Plaintiffs and each Final Settlement Class member and their respective heirs, attorneys, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, successors-in-interest and assigns (collectively, the "Releasing Persons") hereby forever completely release and discharge Defendants and their past, present and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint ventures, affiliated organizations, insurers and re-insurers and assigns, and each of their past, present and future officers, directors, trustees, agents, employees, attorneys, contractors, representatives, partners, joint ventures, benefit plans sponsored or administered by Defendants, divisions, units, branches and other persons or entities acting on their behalf (collectively, the "Released Parties"), from any and all of the following claims, (collectively, the "Released Claims"):

1. Any and all claims, demands, rights, liabilities, expenses and losses that arise from, touch or concern, are or could have been alleged by the Released Parties at any time prior to and through the Class Period, including, but not limited to, claims for unpaid minimum wages, unpaid overtime wages, failure to provide meal and rest breaks, failure to provide wage premiums for missed meal and rest breaks, failure to maintain records, failure to maintain accurate pay stubs, failure to timely pay all final wages, failure to pay all wages upon termination, alleged violations of the Private Attorneys General Act under California Labor Code section 2698, *et seq.*, 2699, and all related statutory claims, including, but not limited to, alleged violations of California Labor Code sections 201-204, 215, 218, 218.5, 218.6, 226, 226(a), 226(e), 226.3, 226.6, 226.7, 226.7(b), 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 2926, 2927, California Business and Professions Code sections 17000 and 17200, *et. seq.*, the relevant Wage Orders issued by the Industrial Welfare Commission or any other claim for any statutory or civil penalty that could have been asserted based on the facts alleged in the Action under California law that arise from the allegations as pled;

2. Any claims for restitution, liquidated damages, disgorgement, conversion, unjust enrichment, interest or equitable relief and/or for penalties of any kind arising under state law with respect to the claims that were asserted or could have been reasonably asserted from the facts alleged in the Action on behalf of the Settlement Class; and

3. Any claim for attorneys' fees or costs against any of the Released Parties.

B. Assignment: Plaintiffs, for themselves and on behalf of the other Releasing Persons, represent and warrant that nothing which would otherwise be released herein has been assigned, transferred or hypothecated or purportedly assigned, transferred or hypothecated.

C. Waiver of Appeal: Any Final Settlement Class member who does not timely submit an objection to the settlement hereby waives any and all rights to appeal from the Final Approval Order and Judgment, including all rights to any post-judgment proceeding and appellate proceeding such as a motion to vacate judgment, motion for new trial and extraordinary writs. This waiver does not include a waiver of the right to oppose any appeals, appellate proceedings or post judgment proceedings, if any.

D. General Release:

1. Plaintiffs' General Release: As a material inducement to Defendants to enter into this Agreement, Plaintiffs do hereby, for themselves and their spouse, heirs, successors and assigns, forever release the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including back wages, penalties, liquidated damages and attorneys' fees and costs actually incurred) of any nature whatsoever, from the beginning of time through the date of preliminary approval of the Settlement, known or unknown, suspected or unsuspected, including, but not limited to, all claims arising out of, based upon or relating to their hiring by, employment with, separation of employment with, or otherwise relating to Released Parties. Plaintiffs' Released Claims include, but are not limited to, claims arising from or dependent on the California Labor Code; the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200, *et seq.*; the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* and the Portal to Portal Act, 29 U.S.C. section 251, *et seq.*

Plaintiffs agree that there is a risk that each and every injury that they may have suffered by reason of the Released Parties' relationship with them might not now be known, and there is further risk that said injuries, whether known or unknown at the date of this Agreement, might possibly become progressively worse, and that as a result thereof further damages may be sustained by them. Nevertheless, Plaintiffs desire to forever and fully release and discharge the Released Parties, and understands that by the execution of this Agreement no further claims for any such injuries that existed at the time of the execution of this Agreement may ever be asserted by Plaintiffs. Plaintiffs expressly waive and relinquish all rights and benefits afforded by section 1542 of the Civil Code of the State of California and does so understanding and acknowledging

the significance of such specific waiver of section 1542. Section 1542 of the Civil Code of the State of California states as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Thus, subject to and in accordance with this Agreement, even if Plaintiffs may hereafter discover facts in addition to or different from those which they now know or believe to be true, Plaintiffs, upon the Final Effective Date, shall be deemed to have fully, finally and forever settled and released any and all claims against the Released Parties which were alleged or could have been alleged in the Action, as well as any other claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, upon any theory of law or equity, including without limitation, conduct which is negligent, intentional, with or without malice or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

XI. INADMISSIBILITY OF SETTLEMENT AGREEMENT/DENIAL OF LIABILITY

This Settlement Agreement is the result of a good faith compromise of disputed claims, and neither it nor any statement or conduct in furtherance of the settlement shall be offered or construed to be an admission or concession of any kind by any party. In particular, but without limiting the generality of the foregoing, nothing about this Settlement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility or fault whatsoever by Defendants, who expressly deny any liability, wrongdoing, impropriety, responsibility or fault whatsoever. In addition, and also without limiting the generality of the foregoing, nothing about this Settlement shall be offered or construed as an admission or evidence of the propriety or feasibility of certifying a class in the Action or any other action for adversarial, rather than settlement purposes. The Parties further agree that if, for any reason, the Settlement is not approved, the certification will have no force or effect and will be immediately revoked.

XII. INTERIM STAY OF PROCEEDINGS

Pending completion of the settlement process, the Parties agree to a stay of all proceedings in the Action except such as are necessary to implement the Settlement itself.

XIII. NOTICES

All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and, except as provided elsewhere in this

Agreement or in any communication to the Settlement Class, shall be delivered personally or via postage prepaid first-class mail as follows:

A. If to Plaintiff or Class Counsel, then to:

Ronald W. Makarem, Esq.
Cameron A. Stewart, Esq.
Makarem & Associates APLC
11601 Wilshire Boulevard, Suite 2440
Los Angeles, CA 90025
Telephone: (310) 312-0299
Facsimile: (310) 312-0296

B. If to Defendants or Defendants' Counsel, then to:

Derek Haynes, Esq.
Barakah M. Amaral, Esq.
Porter Scott
350 University Avenue, Ste. 200
Sacramento, CA 95825
Telephone: 916.929.1481
Facsimile: 916.927.3706

XIV. RETENTION OF JURISDICTION BY THE COURT

Following entry of the Final Approval Order and Judgment pursuant to this Settlement Agreement, the Court shall retain jurisdiction for the purpose of addressing any issues which may arise with respect to settlement administration or the enforcement of the terms of this Settlement Agreement.

XV. ENTIRE AGREEMENT

This Settlement Agreement and its associated Exhibits set forth the entire agreement of the Parties with respect to subject matter and supersede any and all other prior agreements and all negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding the subjects covered herein. The Parties acknowledge that no representations, inducements, promises or statements relating to the subjects covered herein, oral or otherwise, have been made by any of the Parties or anyone acting on behalf of the Parties which are not embodied or incorporated by reference herein, and further agree that no other agreement, covenant, representation, inducement, promise or statement relating to the subjects covered herein are not set forth in writing in this Settlement Agreement.

XVI. MODIFICATION OR AMENDMENT

This Settlement Agreement may not be modified, amended or altered except in a writing signed by each party whose rights or obligations hereunder would be affected thereby or by that party's authorized legal representative, or as ordered by the Court.

XVII. CHOICE OF LAW

This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

XVIII. CONSTRUCTION

This Settlement Agreement is entered into freely and voluntarily without duress or undue pressure or influence of any kind or nature whatsoever and that neither Plaintiffs nor Defendants have relied on any promises, representations or warranties regarding the subject matter hereof other than as set forth in this Agreement. Each party has been represented by counsel in the settlement negotiations leading up to, and in connection with the preparation and execution of, this Settlement Agreement.

The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement Agreement so that it shall not be deemed to have been prepared or drafted by one party or another. All Parties waive the provisions of California Civil Code section 1654, which provides, in pertinent part, that "the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist."

XIX. EXECUTION IN COUNTERPARTS

This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Any signature to this Agreement transmitted by facsimile and any copies of any signatures are valid and binding.

XX. AUTHORITY

The individuals signing this Settlement Agreement on behalf of Defendants represent and warrant that they are duly authorized to do so. The Parties likewise represent and warrant that they have the authority to execute this Settlement Agreement and to take all appropriate action required and permitted to be taken by this Settlement Agreement, except such action that is the prerogative of the Court.

XXI. REASONABLE COOPERATION

The Parties shall provide reasonable cooperation with one another and the Claims Administrator in implementing this Settlement, including, but not limited to, providing

information and executing documents necessary to effectuating its purpose. No party, nor any of its attorneys or agents, shall solicit or encourage any Settlement Class members to exclude themselves from the Settlement or object to the Settlement.

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XXII. BINDING EFFECT

This Settlement shall be enforceable, binding upon and inure to the benefit of the respective Parties hereto, his or their respective legal successors, heirs, administrators, executors, assigns and each of them.

XXIII. NO PRIOR ASSIGNMENT

The Parties hereto represent, covenant and warrant that they have not directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

XXIV. MISCELLANEOUS

A. Headings: The headings in this Agreement are included for convenience only and shall not be given weight in its construction.

B. Signatures: Facsimile transmissions of the signatures or digital signatures of the Parties or their representatives shall be binding on the Parties.


IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties as of the date first written above.

DATED: 11/02/20



LOMPOC INVESTMENTS INC., and
SHAILESHKUMARM. PATEL,
individually

DATED: 11/02/20

By: 

Name: Binaben S Patel
Title: Secretary

FLOSSIE FUEGOS

DATED: _____

By: _____

Name: _____

Title: _____

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///

LORENA PEGUEROS

DATED: _____

By: _____

Name: _____

Title: _____

[ADDITIONAL SIGNATURES CONTINUED ON FOLLOWING PAGE]

LORENA PEGUEROS



DATED: 12 / 22 / 2020 _____

By: _____

Name: Lorena Pegueros _____

Title: Attendant _____

[ADDITIONAL SIGNATURES CONTINUED ON FOLLOWING PAGE]

APPROVED AS TO FORM & CONTENT:


MAKAREM & ASSOCIATES APLC

DATED: _____

By: _____
Ronald W. Makarem
Cameron A. Stewart
Counsel for Plaintiffs

DATED: 11-3-20 _____

PORTER SCOTT

By:  _____
Derek Haynes
Barakah Amaral
Counsel for Defendants