

**COUNTY OF SAN BERNARDINO**

Case No.: CIVDS1828290

# CLASS ACTION SETTLEMENT AGREEMENT

# CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement”) is entered into by and among plaintiff Elizabeth Partida (“Plaintiff” or “Class Representative”), on behalf of herself and all other aggrieved and similarly situated employees, as representative of the class (“Class”), which is stipulated to for purposes of this Settlement only, and the state of California as a private attorneys general, by and through her attorneys, KOUL LAW FIRM (“Class Counsel”), and defendant Stater

1 Bros. Markets (hereinafter "Defendant"), by and through its attorneys. The Class Representative  
2 and Defendant are collectively referred to herein as "the Parties."

3 **RECITALS**

4 A. On November 1, 2018, Plaintiff filed the original Complaint, initiating a proposed  
5 class and representative action pursuant to Civil Procedure Code Section 382 against Defendant in  
6 the San Bernardino County Superior Court, entitled *Elizabeth Partida v. Stater Bros. Markets*,  
7 Case No. CIVDS1828290 (the "Complaint"). The Complaint alleged causes of action for: (1)  
8 failure to pay overtime; (2) failure to timely pay wages upon termination; (3) failure to provide  
9 second meal periods; (4) failure to provide rest periods; (5) failure to furnish and maintain accurate  
10 payroll records; (5) unlawful business practices - Bus. & Prof. Code §17200.

12 B. On November 1, 2018, Plaintiff served upon Defendant and the Labor and  
13 Workforce Development Agency ("LWDA") a notice of an intention to bring a representative  
14 action against Defendant pursuant to the Labor Code Private Attorneys General Act, California  
15 Labor Code Sections 2698 *et seq.* ("PAGA").

17 C. On December 14, 2018, Defendant removed this matter to the United States District  
18 Court for the Central District of California.

19 D. On March 5, 2019, Plaintiff filed a First Amended Complaint alleging cause of  
20 action for: (1) failure to provide second meal periods; (2) failure to provide rest periods; (3) failure  
21 to pay for required off the clock work; (4) failure to timely pay wages upon termination: (5) failure  
22 to furnish and maintain accurate payroll records; (6) unlawful business practices- Bus. & Prof.  
23 Code §17200; and (7) civil penalties for the violation of the private attorneys general act of 2004,  
24 Cal. Labor Code §2698 *et seq.*  
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1 E. On February 19, 2019, the Court entered an order granting in part Defendant's  
2 motion to dismiss, having determined that certain claims were preempted by the Labor  
3 Management Relations Act ("LMRA"), and denying Plaintiff's motion to remand.

4 F. On March 22, 2019, Plaintiff filed a Second Amended Complaint ("SAC"), the  
5 operative complaint in this action, alleging the following causes of action: (1) Failure to Provide  
6 Second Meal Periods; (2) Failure to Provide Rest Periods; (3) Failure to Timely Pay Wages Upon  
7 Termination; (4) Failure to Furnish and Maintain Accurate Payroll Records; (5) Unlawful Business  
8 Practices; and (6) PAGA Penalties ("the Lawsuit")

9 G. Plaintiff was formerly employed by Defendant as a non-exempt employee. The  
10 operative Complaint alleges claims on behalf of a proposed class comprised of: "All current and  
11 former hourly, non-exempt employees of Defendants who work or have worked at Defendant's  
12 Distribution Center located in San Bernardino, California, at any time from four years prior to the  
13 initiation of this action [i.e., November 1, 2014] until the date of certification."  
14

15 H. On July 30, 2019, the Parties participated in a full-day mediation with a private  
16 mediator with extensive experience in the settlement of wage and hour class actions and PAGA  
17 actions, Hon. Stephen Larson (Ret.), in Los Angeles, California.

18 I. Following the mediation, the Parties reached an agreement in principle with respect  
19 to the essential terms of the proposed settlement. That agreement is now set forth in complete and  
20 final form in this Settlement. At all times, the Parties' negotiations were adversarial, non-  
21 collusive, and at arm's length.  
22

23 J. The Parties are sufficiently familiar with the facts of the Lawsuit and the applicable  
24 law, so as to warrant settlement at this time. Prior to the mediation, Defendant provided Class  
25 Counsel with extensive timekeeping, employment and payroll records, policies and information  
26 for Defendant's non-exempt employees within the proposed class definition covered by the  
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1 proposed Settlement. Class Counsel has also retained a forensic wage-and-hour consultant to  
2 analyze and calculate Defendant's potential legal exposure for the alleged violations of the  
3 California Labor Code asserted in this Lawsuit.

4 K. The Parties are represented by competent counsel and have had the opportunity to  
5 consult with counsel prior to the execution of this Settlement, and submission of this Settlement  
6 to the Court.

7 L. Nothing in this Settlement, nor the fact of the Settlement itself, shall be construed  
8 or deemed an admission of liability, culpability, negligence or wrongdoing of any kind on the part  
9 of Defendant with respect to the claims alleged in the Lawsuit.  
10

11 M. Defendant denies all the claims and contentions alleged by the Class  
12 Representative, including individual and class-based allegations in the Lawsuit. Nonetheless,  
13 Defendant has concluded that further litigation would be protracted and expensive and would also  
14 divert management and employee time. Defendant has taken into account the uncertainty and risks  
15 inherent in litigation, especially in multi-party cases. Defendant has therefore concluded that it is  
16 desirable that the Lawsuit be fully and finally settled in the manner and upon the terms and  
17 conditions set forth in this Settlement.  
18

19 N. The Class Representative and Class Counsel believe that the claims asserted in this  
20 Lawsuit have merit. Class Counsel, however, recognizes and acknowledges the significant  
21 expense and length of continued proceedings necessary to prosecute the Lawsuit against Defendant  
22 through trial and appeal. Class Counsel is also mindful of the inherent problems of proof and  
23 possible defenses to the claims asserted and to class certification. After careful consideration and  
24 mediation, Class Counsel has concluded that it is desirable that the Lawsuit be fully and finally  
25 settled in the manner and upon the terms and conditions set forth in this Settlement. Both Class  
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Counsel and the Class Representative believe that the Settlement confers substantial benefits upon the Class and each of the Class Members.

O. Both Parties agree that the Settlement set forth herein adequately balances the risk of proceeding with the Lawsuit against any potential recovery for the Class Members, and therefore the Settlement represents a reasonable, fair, and just compromise of the claims asserted in the Lawsuit.

P. Pursuant to California Evidence Code sections 1152 and 1154, this Settlement and any related documents filed or created in connection with it shall be inadmissible in evidence in any proceeding, except as necessary to approve, interpret or enforce this Settlement, or as may specifically be permitted in Section 12.8 below.

#### **TERMS OF AGREEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Class Representative, for herself and for the Class (as defined hereafter), on one hand, and Defendant on the other hand, that, subject to the conditions precedent set forth in Section 2 below, all claims, debts, liabilities, demand, actions, or causes of action of every nature and description that were alleged in the Lawsuit and the Released Claims, or that reasonably could have arisen out of the factual allegations contained in the pleadings, shall be finally and fully compromised, released, resolved, relinquished, discharged and settled and without any adverse findings or conclusions against Defendant or anyone else, upon and subject to the terms and conditions of this Settlement, as follows:

##### **1. DEFINITIONS**

As used in this Settlement, the following terms shall have the meanings specified below:

1.1 “Alleged Claims” shall mean the claims stated in the Second Amended Complaint (“SAC”) and those based on the facts alleged in the SAC. The Alleged Claims include: (1) failure

1 to provide second meal periods (Wage Order 9 §11; Labor Code §§226.7, 256, 512, 558); (4)  
2 failure to provide rest periods (Wage Order 9 §12; Labor Code §§226.7, 512, 558); (4) failure to  
3 pay for required off the clock work (Labor Code §§ 203, 1198, 558, Wage Order 9); (5) failure to  
4 furnish and maintain accurate payroll records (Labor code §§226(a), 246, 1174); (6) violation of  
5 Business and Professions Code Sections 17200 et seq., and (7) non-class, representative claims  
6 under PAGA (Labor Code § 2698 *et seq.*).

7 1.2 “Settlement Administrator” means CPT Group, which shall act as an independent  
8 third party settlement administrator.

9 1.3 “Settlement Administration Costs” shall mean have the meaning set forth in Section  
10 9.3 of this Settlement.

11 1.4 “Class” means the class certified for purposes of Settlement only, following the  
12 entry of an appropriate Order by the Court, consisting of “all current and former hourly, non-  
13 exempt employees of Defendant who work or have worked at Defendant’s Distribution Center  
14 located in San Bernardino, California, at any time from four years prior to the initiation of this  
15 action until the date of the Court’s order granting Preliminary Approval of the Settlement.”  
16

17 1.5 “Class Counsel” means Nazo Koulloukian of Koul Law Firm.

18 1.6 “Class Counsel Award” shall have the meaning set forth in Section 9.1 of this  
19 Settlement.  
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21 1.7 “Class List” shall have the meaning set forth in Section 5.3 of this Settlement.

22 1.8 “Class Members” and "Participating Class Member" mean all Putative Class  
23 Members who have not opted out of the Settlement after the Notice Period and who are therefore  
24 in the Class that is certified for purposes of Settlement only, following the entry of an appropriate  
25 Order by the Court.  
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1.9 "Class Period" means the period from November 1, 2014 up to and including the Date of Preliminary Approval.

1.10 "Class Representative" means Elizabeth Partida.

1.11 "Gross Settlement Amount" shall have the meaning set forth in Section 4.1 of this Settlement.

1.12 "Court" means the Superior Court of the State of California for the County of San Bernardino.

1.13 "Date of Final Approval" means the date the Court enters an order granting final approval of the Settlement.

1.14 "Date of Final Judgment" means the date the Court renders and enters the Judgment in the Lawsuit upon Final Approval of the Settlement.

1.15 "Date of Preliminary Approval" means the date the Court enters an order granting preliminary approval of the Settlement.

1.16 "Deemed Mailed" shall have the meaning set forth in Section 5.5 of this Settlement.

1.17 "Defendant" means defendant Stater Bros. Markets.

1.18 "Effective Date" means the Date of Final Judgement if an Objection has not been made to the Settlement before such date. However, if an Objection has been made to the Settlement prior to the Date of Final Judgment, the "Effective Date" shall be the date sixty (60) days after the Date of Final Judgment if no appeal from the Final Judgment has been filed in the interim, or, if any such appeal or appeals are filed in the interim, the date when any such appeal has been resolved in a way that does not alter the terms of the Settlement. Prior to the effective date of the settlement, Defendant will not be required to fund this settlement, in whole or in part, through the claims administrator or any third party. Defendant will fund the settlement within 30

1 days of the effective date as defined above, and the claims administrator has authority to distribute  
2 the funds within 30 days of receipt.

3 1.19 "Enhancement Award" shall have the meaning set forth in Section 9.2 of this  
4 Settlement.

5 1.20 "Final Approval Hearing" means the hearing at which the Court considers whether  
6 to grant final approval of the Settlement.

7 1.21 "Final Judgment" and/or "Judgment" means the judgment or order to be rendered  
8 and entered by the Court in the Lawsuit upon Final Approval of the Settlement.

9 1.22 "Individual Class Member Payment" shall have the meaning set forth in Section  
10 4.5 of this Settlement.

11 1.23 "Last Known Address" means the most recently recorded mailing address for a  
12 Putative Class Member as such information is contained in the electronic employment or personnel  
13 records maintained by Defendant.

14 1.24 "Lawsuit" means the action styled *Elizabeth Partida v. Stater Bros. Market*, Case  
15 No. CIVDS1828290 pending in the San Bernardino County Superior Court (which also includes  
16 reference to the same action that was pending in United States District Court, Central District of  
17 California, Case No. 5:18-cv-02600-SJO(KKx)).

18 1.25 "Net Settlement Consideration" shall have the meaning set forth in Section 4.4 of  
19 this Settlement.

20 1.26 "Notice of Class Action Settlement" shall have the meaning set forth in Section 5.4  
21 of this Settlement.

22 1.27 "Notice Packets" shall have the meaning set forth in Section 5.4 of this Settlement.  
23 The Settlement Administrator shall disseminate the contents of the Notice Packets to Class  
24 Members in both the English and Spanish languages.  
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1.28 "Notice Period" shall have the meaning set forth in Section 5.6 of this Settlement.

1.29 "Objection Form" shall have the meaning set forth in Sections 5.4 and 6 of this Settlement.

1.30 "PAGA Payment" shall have the meaning set forth in Section 4.3 of this Settlement.

1.31 "Participating Class Member" and "Class Member" mean each Putative Class Member who does not submit a valid and timely Request for Exclusion.

1.32 The "Parties" means the Class Representative and the Defendant.

1.33 "Putative Class Members" shall mean all current and former employees of Defendant who were employed as non-exempt employees at any of Defendant's locations anywhere in California at any time during the Class Period.

1.34 "Reasonable Address Verification Measure" means the utilization of the National Change of Address Database maintained by the United States Postal Service to review the accuracy of and, if possible, update a mailing address.

1.35 "Released Claims" shall have the meaning set forth in Section 10.2 of this Settlement.

1.36 "Released Parties" means Stater Bros. Markets, together with its officers, directors, employees and agents, successors and assigns.

1.37 "Request for Exclusion Form" shall have the meaning set forth in Sections 5.4 and 5.6 of this Settlement.

1.38 "Settlement" means the terms and conditions set forth in this Settlement.

1.39 "Settlement Agreement" means this Class Action Settlement Agreement.

1.40 "Updated Address" means a mailing address that was updated via Reasonable Address Verification measures or via an updated mailing address provided by the United States Postal Service or a Putative Class Member.

## 2. CONDITIONS PRECEDENT TO EFFECTIVENESS OF SETTLEMENT

The Parties enter into this Settlement on a conditional basis.

2.1 This Settlement will become final and effective only upon the occurrence of all of the following events. Similarly, Defendant's obligations under this Settlement will become final and effective only upon completion of each of the following events:

- (a) The Court enters an order granting preliminary approval of the Settlement;
- (b) Defendant elects not to exercise its limited rights to terminate this Settlement pursuant to the grounds described in Sections 3 and 5.9 of this Settlement;
- (c) The Court certifies the Class for settlement purposes;
- (d) The Court conducts a Final Approval Hearing;
- (e) The Court enters a Final Judgment granting final approval of the Settlement;
- and
- (f) The Effective Date occurs, and any challenge to the Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement.

This Settlement shall be deemed null and void *ab initio* upon the failure of any of the foregoing conditions to occur. In such event, neither this Settlement, nor any negotiations leading to this Settlement, nor any information exchanged solely for purposes of furthering settlement negotiations, will be used or construed by or against any Party as a determination, admission or concession of any issue of law or fact. The Parties hereto do not waive, and instead expressly

1 reserve, their respective rights regarding the prosecution and defense of the Lawsuit, including all  
2 available claims, defenses and affirmative defenses, as if this Settlement never existed.

3 2.2 The invalidation of any material term of this Settlement will invalidate the  
4 Settlement in its entirety unless the Parties subsequently agree in writing that the remaining  
5 provisions will remain in force and effect.

6 2.3 In the event of a timely appeal from a Final Judgment, the Judgment will be stayed  
7 and all payments required under this Settlement, other than payments to the Settlement  
8 Administrator for services rendered, will not be paid pending the completion and final resolution  
9 of the appeal, and any payments thereafter will: (a) occur only if the Final Judgment is upheld after  
10 all appeals; and (b) be distributed in a manner that is provided for in this Settlement and in the  
11 Final Judgment.  
12

13 **3. CONDITIONAL CLASS CERTIFICATION**

14 For settlement purposes only, the Parties stipulate to class certification of the Class. If the  
15 Court does not grant preliminary and/or final approval of this Settlement, the Parties agree that  
16 this conditional class certification will automatically be deemed revoked and Defendant is afforded  
17 the same defenses and rights as were preserved before the Settlement was entered into. If, pursuant  
18 to Section 5.9, fifteen percent (15%) or more of the Putative Class Members opt out of the Class  
19 or the Settlement, Defendant maintains the right, in its sole discretion, to revoke this Settlement,  
20 including its stipulation to class certification. In the event of such revocation of the Settlement,  
21 Defendant shall pay the Settlement Administrator for any Settlement Administration Costs  
22 incurred prior to such revocation. If the court does not grant preliminary and/or final approval of  
23 this Settlement, the Parties further stipulate that this and any future settlement agreement shall not  
24 affect Defendant's ability to maintain that class certification is inappropriate in this Lawsuit and/or  
25 that this Lawsuit cannot be managed as a representative action.  
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1                   **4. SETTLEMENT CONSIDERATION**

2           4.1     For purposes of this settlement only, Defendant agrees to pay the gross amount of  
3 EIGHT HUNDRED SEVENTY GIVE THOUSAND DOLLARS (\$875,000) (“the Gross  
4 Settlement Amount”). As a result of this settlement, all attorneys’ fees, costs, administrative fees,  
5 employer-side payroll taxes (including FICA) on the portion of the settlement amounts  
6 characterized as wages, and class representative enhancements shall be paid from this Gross  
7 Settlement Amount. Under no circumstances shall Defendant be required to contribute more than  
8 the Gross Settlement Amount, other than the isolated purpose of Defendant paying the employer-  
9 side payroll taxes on the amount attributed to wages.  
10

11           4.2.    Out of the Gross Settlement Amount, the Parties agree to allocate the amount of  
12 twenty-thousand dollars (\$20,000) to represent all alleged penalties under the Private Attorneys  
13 General Act of 2004 (“PAGA”). Of the PAGA allotment, the Parties agree that seventy-five  
14 percent (75%), (i.e. \$15,000), will be made payable to the State of California via the Labor  
15 Workforce and Development Agency, and the remaining twenty-five percent (25%) (i.e. \$5,000),  
16 will be distributed among all putative “aggrieved employees,” pay to be determined on a pro-rata  
17 basis through calculation of number of workweeks worked, of those who were employed by  
18 Defendant for one-year before the filing of the original Complaint, i.e., November 1, 2018, through  
19 the date of preliminary approval in this action. For the purpose of calculating applicable taxes, the  
20 Parties agree that the entirety of the PAGA Payment constitutes penalties  
21

22           4.3.    Defendant agrees to not oppose, and to pay, as awarded and approved by the Court,  
23 the following, which shall not exceed the Gross Settlement Amount, and shall be apportioned from  
24 the Gross Settlement Amount: (1) attorneys’ fees of thirty-three and one-third percent (33.33%)  
25 of the Gross Settlement Amount to Class Counsel (i.e. the amount of two-hundred ninety one  
26 thousand, six hundred sixty seven dollars and zero cents [\$291,667]) ; (2) a class representative  
27

enhancement up to the gross amount of Seventy Five Hundred (\$7,500) to Plaintiff Partida; (3) reasonable costs of third-party settlement claims administration not to exceed twenty-thousand dollars and zero cents (\$20,000); (4) reasonable costs to Plaintiff's counsel not to exceed fifteen thousand dollars and zero cents (\$15,000) or otherwise mutually agreed to by the Parties, and (5) all necessary taxes pursuant to the Settlement, including Class Member and Employer side payroll taxes (including FICA). If the Court declines to award attorneys' fees and/or class representative enhancements in that amount by the Court, any difference shall be added to the resulting Net Settlement Amount defined below.

4.4. The Parties understand and agree that, upon the Effective Date of the Settlement, no part of the Gross Settlement Amount shall revert to Defendant under any circumstances. Instead, upon the Effective Date, the entirety of the Gross Settlement Amount shall be distributed as set forth in this Settlement. The Parties further understand and agree that Participating Class Members shall not be required to submit any claim form in order to receive an Individual Class Member Payment pursuant to this Settlement. Any balance remaining from the Gross Settlement Amount shall be distributed equally to the *Cy Pres* designee, which is designated as the Children's Advocacy Institute (see: [www.caichildlaw.org](http://www.caichildlaw.org)), pursuant to Final Approval by the Court.

4.5 Defendant agrees to pay an Enhancement Award of Seven Thousand Five Hundred Dollars (\$7,500.00) from the Gross Settlement Amount to the Class Representative upon Plaintiff's application and the Court's approval. The Class Representative shall be issued an IRS Form 1099 for any Enhancement Award.

4.6 The "Net Settlement Consideration" shall be the amount of the Gross Settlement Amount available for distribution to the Participating Class Members after subtracting the items enumerated in Section 4.3 from the Gross Settlement Amount.

1           4.7    Each Participating Class Member shall receive an Individual Class Member  
2 Payment, less legally required withholdings, which is a share of the Net Settlement Consideration  
3 based on the following formulas. To determine the amount of the Individual Class Member  
4 Payment, the Settlement Administrator shall determine from information provided by Defendant  
5 the total number of work weeks worked by all Participating Class Members during the Class  
6 Period. The Settlement Administrator shall then divide the amount of the Net Settlement  
7 Consideration by the total number of work weeks worked by all Participating Class Members  
8 during the Class Period. The product of this division will be the amount per work week to be paid  
9 to each such Participating Class Member for each work week such Participating Class Member  
10 worked during the Class Period. Specifically, the Settlement Administrator shall multiply the  
11 amount per work week by the number of work weeks worked by each such Participating Class  
12 Member during the Class Period and pay the resulting sum to each such Participating Class  
13 Member. The product of this multiplication shall be the amount of the Individual Class Member  
14 Payment which each Participating Class Member shall be entitled to receive. In addition to the  
15 Individual Class Member Payment, each Participating Class Member who is deemed an “aggrieved  
16 employee” shall be entitled to receive equal shares of the portion of the PAGA Payment allotted  
17 to the “aggrieved employees” pursuant to the formula set forth in Section 4.3. However, Putative  
18 Class Members who opt out of the Settlement and/or Class and therefore do not qualify as  
19 Participating Class Members shall not be entitled to receive an Individual Class Member Payment,  
20 including PAGA, and will not be deemed “aggrieved employees” if they opt-out, even if they  
21 would otherwise deemed “aggrieved employees” to receive a share the PAGA Payment had they  
22 not opted-out. Any remaining reversionary funds shall be redistributed to class members on a pro  
23 rata basis.  
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1 For purposes of the foregoing formulas, Defendant shall be entitled to estimate the number  
2 of work weeks worked by Participating Class Members, individually and collectively, during the  
3 Class Period by referring to the time frames worked by Participating Class Members during the  
4 Class Period or to any other available data or information. For the purpose of calculating  
5 applicable taxes under this formula, the Parties agree that twenty percent (20%) of the Net  
6 Settlement Consideration shall be considered to be paid in the settlement of claims for unpaid  
7 wages, that eighty percent (80%) of the Net Settlement Consideration shall be considered to be  
8 paid in the settlement of claims for penalties and interest.  
9

10 **4.8 Tax Matters.**

11 (A) The Settlement Administrator shall issue an IRS Form W-2 to each Participating  
12 Class Member for the portion of the payment that constitutes wages, and shall issue an IRS Form  
13 1099 to each Participating Class Member for the portion of the payment that constitutes penalties  
14 and interest, and to the Class Representative for any Enhancement Award. The Settlement  
15 Administrator shall also calculate all legally required withholdings from the Individual Class  
16 Member Payments and shall withhold and remit such amounts to the relevant taxing authorities.  
17 Defendant shall provide the Settlement Administrator with the necessary information to calculate  
18 these required withholdings and any payroll taxes with respect to the Individual Class Member  
19 Payments.  
20

21 (B) Defendant shall be responsible for paying the employer's portion of any tax liability  
22 with respect to payments required by this Settlement attributed to wages, separate and apart from,  
23 and in addition to, the Gross Settlement Amount, and shall contribute additional funds as necessary  
24 to satisfy these obligations. Defendant shall not be responsible, however, for making additional  
25 contributions for tax payments or any additional payments of the Gross Settlement Amount that is  
26 above the Gross Settlement Amount. attributable to Settlement Administration Costs, the Class  
27

1 Counsel Award, the PAGA Payment, penalties, interest or any Enhancement Award, i.e. only on  
2 the portion of the settlement attributed to wages.

3 (C) The Class Representative and any Putative Class Member who receives any  
4 payment pursuant to this Settlement shall be responsible for correctly characterizing such amounts  
5 for tax reporting purposes and shall be solely responsible for any and all tax obligations associated  
6 with such receipt, except as may be specifically set forth in this Section.

7 (D) The Settlement Administrator shall issue a Form 1099 to Class Counsel for any  
8 Class Counsel Award from the Gross Settlement Amount. Class Counsel shall be fully responsible  
9 for the payment of any taxes due on such award.  
10

11 (E) Payments to Putative Class Members and/or Participating Class Members will not  
12 count as earnings or compensation for purposes of any benefit plans (*e.g.*, 401(k) plans, retirement  
13 plans, etc.) sponsored by Defendant.

14 4.7 The Individual Class Member Payments and the individual shares of the PAGA  
15 Payment shall be paid according to Sections 4 and 8 of this Settlement.  
16

17 **5. CLAIMS PROCEDURE**

18 5.1 The Parties designate CPT Group as the Settlement Administrator.

19 5.2. The Settlement Administrator will be responsible for mailing the Notice Packets,  
20 searching for appropriate contact information for Putative Class Members, collecting documents  
21 from Putative Class Members, responding to inquiries from Putative Class Members, and  
22 performing such other duties as the Parties may direct.  
23

24 5.3 **Putative Class Member List.** Not later than thirty (30) days following the Date  
25 of Preliminary Approval, Defendant will provide to the Settlement Administrator, but not Class  
26 Counsel, a list (the "Class List") identifying each Putative Class Member during the Class Period,  
27 his or her social security number, his/her Last Known Address, and the estimated number of work



1 weeks worked by each Putative Class Member during the Class Period. At the same time,  
2 Defendant will provide to the Settlement Administrator, but not Class Counsel, a supplemental list  
3 (the "PAGA Aggrieved Employee List") identifying each Putative Class Member employed by  
4 Defendant during any portion of the Class Period on or after November 1, 2017. The Settlement  
5 Administrator shall keep all information contained in the Class List and PAGA Aggrieved  
6 Employee List completely confidential, shall not share such information with any other person or  
7 entity, and shall not use such information for any purpose other than those expressly described in  
8 this Settlement.  
9

#### 10 5.4 Notice to Putative Class Members

11 (A) Immediately upon receipt of the Class List and PAGA Aggrieved Employee List,  
12 the Settlement Administrator shall undertake a Reasonable Address Verification Measure to  
13 ascertain the accuracy of the Last Known Address for each Putative Class Member. To the extent  
14 that this process yields an Updated Address, that Updated Address shall replace the Last Known  
15 Address and be treated by the Settlement Administrator as the new Last Known Address.  
16

17 (B) Not later than thirty (30) days following receipt of the Class List and PAGA  
18 Aggrieved Employee List, the Settlement Administrator shall send, via U.S. Mail: (a) a Notice of  
19 Class Action Settlement substantially in the form of Exhibit "A" hereto; (b) an Objection Form  
20 substantially in the form of Exhibit "B" hereto; and (c) a Request for Exclusion Form substantially  
21 in the form of Exhibit "C" hereto. The Settlement Administrator shall disseminate the Notice of  
22 Class Action Settlement, Objection Form and Request for Exclusion Form to Class Members in  
23 both the English and Spanish languages. Collectively, the Notice of Class Action Settlement,  
24 Objection Form and Request for Exclusion Form shall be referred to herein as the "Notice Packet."  
25 Each Notice of Class Action Settlement distributed to each individual Putative Class Member shall  
26 disclose (a) the estimated share of the Net Settlement Consideration payable to that Putative Class  
27

1 Member pursuant to the terms of this Settlement, (b) the estimated share of the PAGA Payment  
2 payable to that Putative Class Member pursuant to the terms of this Settlement, (c) the number of  
3 work weeks or any other employment data pertaining to that Putative Class Member on which the  
4 Settlement Administrator relied to calculate these estimated shares, and (d) the estimated likely  
5 recovery by the average Putative Class Member. In addition, the Notice of Class Action Settlement  
6 shall inform each Putative Class Member who is deemed an “aggrieved employee” pursuant to  
7 Section 4.3 that he or she will be entitled to an equal per capita share of the \$5,000 portion of the  
8 PAGA Payment regardless of whether he or she returns a Request for Exclusion Form. Finally,  
9 contemporaneous with the dissemination of the Notice Packet to the Class, the Settlement  
10 Administrator shall post a true and correct copy of the Settlement with Exhibits on a settlement  
11 website to be established by the Settlement Administrator and notify Class Members as to the  
12 website address in the Notice of Class Action Settlement.  
13

14 **5.5 Date of Mailing and Re-Mailing**

15 (A) A Notice Packet shall be “Deemed Mailed” to the Putative Class Member to whom  
16 it was sent five (5) days after mailing, regardless of whether it is subsequently returned as  
17 undeliverable from the United States Postal Service. In the event that a Notice Packet is returned  
18 to the Settlement Administrator with a forwarding address, the Settlement Administrator will re-  
19 send the Notice Packet to the forwarding address affixed thereto, and the forwarding address will  
20 be deemed the Updated Address for that Putative Class Member. In the event that the first mailing  
21 of the Notice Packet is returned without a forwarding address within at least fourteen (14) days  
22 prior to the end of the Notice Period, the Settlement Administrator will immediately conduct a  
23 standard skip trace in an effort to ascertain the current address for the particular Putative Class  
24 Member in question. If a more recent or accurate address is found by this method, the Settlement  
25 Administrator will resend the Notice Packet to the new address within three (3) calendar days of  
26  
27

1 identifying the new address information. All of the costs incurred relating to the skip traces  
2 described above shall fall within the definition of Settlement Administration Costs.

3 (B) In the event the procedures set forth herein are followed and the intended recipient  
4 of a Notice Packet still does not receive the Notice Packet, or any portion thereof, the intended  
5 recipient will nevertheless be deemed a Class Member and will be bound by all terms of the  
6 Settlement and the Final Judgment entered by the Court.

7  
8 **5.6 Opt-Out and Claims Procedure.**

9 (A) Putative Class Members shall have forty-five (45) days from the date that the Notice  
10 Packet is Deemed Mailed to the Putative Class Members (referred to hereafter as the "Notice  
11 Period") to return by mail a completed and signed Objection Form or Request for Exclusion Form  
12 to the Settlement Administrator. The date of mailing of the Objection Form or Request for  
13 Exclusion Form by a Putative Class Member is deemed to be the date the form is deposited in the  
14 U.S. Mail, postage prepaid, as evidenced by the post-mark. If the last day of the Notice Period  
15 falls on a Sunday or legal holiday, the Notice Period shall be deemed to extend through the next  
16 business day.

17  
18 (B) All Putative Class Members shall receive an individual share of the PAGA  
19 Payment. However, any Putative Class Member who submits a timely and valid Request for  
20 Exclusion Form shall not receive an Individual Class Member Payment under this Settlement and  
21 shall not be bound by the Release of Claims set forth in Sections 10.2 and 10.3 of this Settlement.  
22 All other Putative Class Members who do not submit timely and valid Request for Exclusion  
23 Forms shall be deemed Participating Class Members and shall be bound by all terms of this  
24 Settlement.

25  
26 **5.7 Disputes Regarding Individual Shares.** Putative Class Members will be entitled  
27 to dispute the number of work weeks or other data used to calculate their estimated shares of the

1 PAGA Payment and/or Net Settlement Consideration disclosed in the Notice of Class Action  
2 Settlement by: (1) notifying the Settlement Administrator in writing or orally as to the existence  
3 of their dispute; (2) providing the Settlement Administrator with a proposed correction to the data  
4 used to calculate their estimated shares of the PAGA Payment and/or Net Settlement  
5 Consideration; and (3) submitting satisfactory evidence to the Settlement Administrator to support  
6 their proposed correction. In the event of such a dispute, the Parties and the Settlement  
7 Administrator shall meet and confer in good faith in an attempt to resolve that dispute. If the  
8 dispute cannot be resolved in this manner, the dispute shall be submitted to the Settlement  
9 Administrator for resolution and the decision of the Settlement Administrator shall be considered  
10 final and binding. In the event a dispute is resolved in the Putative Class Member's favor, the  
11 calculation of that Putative Class Member's individual shares of the PAGA Payment and/or Net  
12 Settlement Consideration will be revised accordingly. Before the Final Approval Hearing, the  
13 Settlement Administrator will provide a written explanation to any Putative Class Member raising  
14 a dispute regarding the calculation of his or her individual shares of the PAGA Payment and/or  
15 Net Settlement Consideration entitled "Notice Regarding Disputed Calculations." This document  
16 will inform the Putative Class Member of any change to the calculation of his or her individual  
17 share of the PAGA Payment and/or Net Settlement Consideration, set forth the reasons why no  
18 change has been made, or explain that the matter will be resolved at the Final Approval Hearing.

21 5.8 Within seven (7) days after the expiration of the Notice Period the Settlement  
22 Administrator shall notify Class Counsel and Defendant's counsel of the Putative Class Members  
23 who submitted timely and valid Request for Exclusion Forms. The Settlement Administrator shall  
24 identify these Class Members by employee identification number only.

26 5.9 The Parties and their counsel shall not discourage any Putative Class Member from  
27 participating in the Settlement and shall not encourage or discourage any Putative Class Member

1 with respect to objecting to or opting out of the Settlement. However, if fifteen percent (15%) or  
2 more of the Putative Class Members opt out of the Class, then Defendant shall have the right, in  
3 its sole discretion, to void this Settlement and to revoke class certification. Defendant has ten (10)  
4 business days following its notification by the Settlement Administrator regarding the final number  
5 of Class Members who have opted out of the Class to notify Class Counsel of its intent to revoke  
6 the Settlement. In the event of such revocation of the Settlement, Defendant shall pay the  
7 Settlement Administrator for any Settlement Administration Costs incurred prior to such  
8 revocation.  
9

10 5.10 This Settlement is based on an estimated class size of 1,263 Putative Class  
11 Members, which was provided in advance of mediation. The Parties understand that there may be  
12 some variance between this number and the final class size, including potential new hires that were  
13 hired after this lawsuit was filed, and after mediation in this matter, based on the Class Period end  
14 date of the Plaintiff's filing of preliminary approval. After the mediation, Defendant has provided  
15 Plaintiff supplemental figures of the Class, which remains within the same reasonable range of the  
16 estimated class size. The Parties further agree that any variance less than 10% shall not affect the  
17 terms or enforcement of this Settlement.  
18

## 19 **6. OBJECTIONS TO SETTLEMENT**

20 To be eligible to submit an Objection Form, any Putative Class Member who wishes to  
21 object to the Settlement must not have opted out of the Settlement by returning a Request for  
22 Exclusion Form. Any Putative Class Member who wishes to object to the Settlement must  
23 complete, sign and mail the Objection Form to the Settlement Administrator, no later than forty-  
24 five (45) days following the date the Notice Packet is Deemed Mailed. The date of delivery of any  
25 Objection Form is deemed to be the date the Objection Form is deposited in the U.S. Mail, postage  
26 pre-paid, as evidenced by the postmark. The Settlement Administrator will forward to Class  
27

1 Counsel and Defendant's counsel copies of any and all Objection Forms received by the Settlement  
2 Administrator, and will also attach copies of such Objection Forms to the Settlement  
3 Administrator's declaration described in Section 11.4 of this Settlement. The Parties, through their  
4 counsel, shall also notify the Court of any Objection Forms prior to the Final Approval Hearing.  
5 Any Class Member who fails to return a timely and valid Objection Form in the manner described  
6 above will be deemed to have waived all objections and/or contests to the Settlement and will be  
7 foreclosed from contesting and/or attacking the fairness or validity of the Settlement (whether by  
8 appeal or otherwise).  
9

10 **7. ABSOLUTE DEADLINE FOR OBJECTION FORMS, REQUESTS FOR**  
11 **EXCLUSION AND/OR OBJECTIONS**

12 7.1 Notwithstanding any other provision of this Settlement, any Objection Form or  
13 Request for Exclusion Form returned by a Class Member will be considered untimely submitted  
14 if it is postmarked more than forty-five (45) days from the date the Notice Packet was Deemed  
15 Mailed to that Putative Class Member, unless the Parties agree otherwise.  
16

17 7.2 Not later than seven (7) calendar days after the expiration of the Notice Period, the  
18 Settlement Administrator shall notify Class Counsel and Defendant's counsel (by employee  
19 identification number only) of: (a) the Putative Class Members who have opted out of the Class;  
20 (b) the details of any objections or corrections to the data used to calculate their estimated shares  
21 of the PAGA Payment and/or Net Settlement Consideration; (c) the amount of each individual  
22 share of the PAGA Payment due to each Putative Class Member; and (d) the amount of each  
23 Individual Class Member Payment due to each Participating Class Member.  
24

25 **8. PAYMENT PROCEDURE**

26 8.1 As a condition of receiving any Individual Class Member Payment under this  
27 Settlement, Putative Class Members must become a Participating Class Member by not opting out

1 of the Class and by releasing the Released Claims. Plaintiff will be issued his Individual Class  
2 Member Payment at the time the Settlement Administrator issues payments to all Class Members.  
3 All Putative Class Members will receive an individual share of the PAGA Payment, regardless of  
4 whether they have become Participating Class Members.

5 8.2 The Settlement Administrator shall be responsible for mailing (a) the Individual  
6 Class Member Payments to the Class Members and (b) the individual shares of the PAGA Payment  
7 to the Putative Class Members. Not later than thirty (30) days following the Effective Date,  
8 Defendant shall transfer the Gross Settlement Amount to the Settlement Administrator. The  
9 Settlement Administrator shall mail to each Participating Class Member and/or Putative Class  
10 Member a check in the amount(s) calculated pursuant to Section 4 of this Settlement no later than  
11 ten (10) days thereafter. All such checks will indicate on their face that they are void if not  
12 negotiated within one hundred eighty (180) days of issuance. The Settlement Administrator will  
13 determine the appropriate method to be used to calculate payroll tax withholdings. The expense  
14 of conducting such calculations shall be considered part of the Settlement Administration Costs.  
15

16 8.3 In the event that a settlement check is returned to the Settlement Administrator with  
17 a forwarding address, the settlement check will be forwarded to the forwarding address. In the  
18 event a settlement check is returned to the Settlement Administrator without a forwarding address  
19 or is otherwise undeliverable, the Settlement Administrator will conduct a skip trace and re-mail  
20 the returned check, and the expense of such search shall be part of the Settlement Administration  
21 Costs. If a Class Member contacts the Settlement Administrator or counsel for either Party with a  
22 new address within thirty (30) days of the date the settlement checks are initially mailed to the  
23 Class Members, the settlement check for that Class Member will be reissued and mailed to the  
24 new address provided no later than five (5) days after receipt of the new address for that Class  
25  
26  
27

Member. Any such reissued check will indicate on its face that it is void if not negotiated within sixty (60) days of its issuance.

**9. ATTORNEYS' FEES AND COSTS, CLASS REPRESENTATIVE  
ENHANCEMENT AWARD, AND COSTS OF NOTICE AND  
ADMINISTRATION**

9.1 **Attorneys' Fees and Costs.** Defendant will not oppose Class Counsel's request for the award of attorneys' fees and reasonable litigation costs described in Section 4.3 above, and agrees that the request is fair and reasonable under the circumstances of this case.

9.2 **Enhancement Award.** Defendant will not oppose Class Counsel's request for an Enhancement Award to the Class Representative as described in Section 4.3 above, for her time, effort and participation in this Lawsuit as Class Representative. Defendant will not oppose a motion for approval of such Enhancement Award and agrees that the request is fair and reasonable under the circumstances of this case.

9.3 **Settlement Administration Costs.** Settlement Administration Costs shall include all costs and expenses due to the Settlement Administrator in connection with its administration of the claims including, but not limited to, preparing and mailing Notice Packets, locating Class Members, processing Request for Exclusion Forms and Objection Forms, calculating withholdings and taxes, and calculating, administering and distributing payments to Participating Class Members and/or Putative Class Members. All Settlement Administration Costs shall be paid from the Class Settlement Amount. The Parties have agreed to use CPT Group, Inc. as the third-party settlement administrator.

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1           **10.     RELEASE OF CLAIMS**

2           **A.     Release of Class Claims.**

3           **10.1    Terms of Release.** In consideration of the mutual promises contained herein, the  
4 Class Representative and the Participating Class Members, on behalf of themselves and on behalf  
5 of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns,  
6 do hereby and forever fully and finally release, waive, acquit and discharge the Released Parties  
7 from the Released Claims, as defined below.  
8

9           **10.2    Released Claims of Class Members and the Class Representative**

10          Upon the Effective Date, all Participating Class Members (*i.e.*, excluding those Putative  
11 Class Members who submitting valid and timely Request for Exclusion Forms) will be deemed to  
12 have, and by operation of the Final Judgment will have, expressly waived and relinquished, to the  
13 fullest extent permitted by law, all state and federal wage claims against Defendant, and its present  
14 and former parents, subsidiaries, co-employers, and each of their respective present and former  
15 owners, boards, directors, officers, trustees, shareholders, members, partners, employees, agents,  
16 attorneys, representatives, successors and assigns, and present and former parents, subsidiaries,  
17 affiliated and related parties, and each of them, of any and all claims, debts, liabilities, demands,  
18 actions, or causes of action of every nature and description that were alleged or that reasonably  
19 could have arisen out of the factual allegations contained in the operative pleadings on file with  
20 this court, including, but not limited to: meal and rest period liability and premiums, , waiting time  
21 penalties, itemized wage statements, any other related penalties, attorneys' fees, and/or costs and  
22 all claims under PAGA, the Unfair Competition Law, arising from the claims described above  
23 within the Class Period. =This release covers all such Released Claims against any Released Party.  
24 The Parties also acknowledge that a Court of competent jurisdiction has already ruled that  
25 Plaintiff's causes of action for unpaid wages were pre-empted by the Labor Management Relations  
26  
27

1 Act ("LMRA"), and for that reason, the Court dismissed those claims and all associated relief from  
2 the First Amended Complaint. As relevant here, the Parties acknowledge that a claims for "unpaid  
3 wages, unpaid overtime and minimum wage" are now not at issue in the operative complaint, but  
4 stipulate that for this Class and Settlement, this Court should adopt in its order granting settlement  
5 that any claim for unpaid wages, or derivative penalties should be equally barred from being  
6 litigated in any Superior Court of California, any District Court of California, or other court of  
7 competent jurisdiction. In other words, the Parties agree that any and all claims for unpaid wages  
8 and derivative relief should only be brought under the exclusive province of the terms, conditions  
9 and grievance procedures as agreed upon by and between Defendant and the Class Member's  
10 Union representative, and as codified in the Collective Bargaining Agreements ("CBA") covering  
11 the Class during the Class Period. Nothing in this Agreement shall affect the timeliness of any  
12 grievance claim, nor create new rights under the CBAs, and Defendant preserves all rights and  
13 defenses to any challenge to the CBA.  
14

15 **10.3 California Labor Code Section 206.5.** In connection with the above Released  
16 Claims, and in consideration of Defendant's payments of the sums provided herein, each and every  
17 Participating Class Member will be deemed also to have acknowledged and agreed that California  
18 Labor Code Section 206.5 is not applicable to the Parties hereto or the Participating Class Members  
19 because there is a good faith dispute as to whether any wages are due at all to any Participating  
20 Class Member.  
21

22 **10.4 Binding on State of California.**

23 The Parties believe that the settlement of PAGA claims in this Settlement shall be binding  
24 on the State of California under PAGA and in accordance with the doctrine of *res judicata*. The  
25 Parties further believe that, upon the Effective Date, by virtue of the Court's approval of this  
26 Settlement, the State of California shall be deemed to be barred from assessing or collecting any  
27

1 and all additional civil penalties against any Released Party based on the PAGA claims alleged in  
2 the operative complaint.

3 **C. General Release by Plaintiff Individually and Defendant.**

4 **10.5 Additional Released Claims.** In addition to the Released Claims, upon the  
5 Effective Date of the Settlement, Plaintiff individually releases, on behalf of herself alone and not  
6 on behalf of the Class, any and all claims belonging to Plaintiff individually, known or unknown,  
7 contingent or accrued, against the Released Parties arising out of any act or event that occurred  
8 prior to the date of execution of this Settlement.  
9

10 Plaintiff waives the protections of California Civil Code Section 1542, which provides:

11 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
12 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**  
13 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**  
14 **THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD**  
15 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH**  
16 **THE DEBTOR OR RELEASED PARTY.**  
17

18 Plaintiff acknowledges that either may hereafter discover facts in addition to or different  
19 from those which he or it now know or believe to be true, but stipulate and agree that, upon the  
20 Effective Date, Plaintiff will fully, finally and forever settle and release any and all individual  
21 claims he may have against any Defendant and Released Party.  
22

23 **11. MOTION FOR COURT APPROVAL**

24 11.1 Promptly after the execution of this Settlement, Class Counsel shall submit to the  
25 Court: (a) a fully executed copy of this Settlement; (b) a noticed motion seeking the Court's  
26 preliminary approval of this Settlement; (c) a proposed order granting such preliminary approval  
27 and setting a Final Approval Hearing; and (d) any other documents consistent with the Settlement

1 reasonably necessary to obtain the Court's approval of the Settlement. The Parties will ask the  
2 Court to maintain jurisdiction of this matter for the purpose of monitoring compliance with and  
3 performance under this Settlement and any and all orders and judgments, including the Final  
4 Judgment, entered by the Court. The Parties will also ask the Court to stay the Lawsuit, including  
5 all pending litigation and discovery activity, all pending deadlines, and all Court proceedings in  
6 the Lawsuit, other than a Motion For Preliminary Approval of the Settlement, a Motion for Final  
7 Approval of the Settlement, a Motion for the Class Counsel Award and Enhancement Award or  
8 any other Order necessary to enforce the terms of this Settlement, until the earlier of: (a) the date  
9 of Final Judgment; (b) the date, if any, upon which Defendant revokes the Settlement pursuant to  
10 Sections 3 and 5.9; or (c) the date, if any, the Court denies a Motion for Preliminary Approval with  
11 prejudice or a Motion for Final Approval with prejudice.  
12

13       11.2 The Parties shall request that a Final Approval Hearing be set within a reasonable  
14 time after the last day of the Notice Period.  
15

16       11.3 Prior to the Final Approval Hearing, Plaintiff shall file with the Court his Motion  
17 for the Class Counsel Award and the Enhancement Award.  
18

19       11.4 No later than twenty-one (21) court days before the Final Approval Hearing, the  
20 Settlement Administrator shall provide Class Counsel and counsel for Defendant with a  
21 declaration showing compliance with the terms of this Settlement to be filed with the Court by  
22 Class Counsel.  
23

24       11.5 Prior to the Final Approval Hearing, Class Counsel shall file a Motion for Final  
25 Approval and any other documents reasonably necessary to obtain the Court's final approval of  
26 the Settlement and entry of Final Judgment approving of and enforcing the Settlement.  
27

      11.6 Upon final approval of the Settlement by the Court at or after the Final Approval  
Hearing, the Parties shall present the Final Judgment to the Court for its approval. After entry of

1 the Final Judgment, the Court shall have continuing jurisdiction solely for purposes of addressing:  
2 (a) the interpretation and enforcement of the terms of this Settlement, (b) Settlement  
3 administration matters, and (c) such post-Final Judgment matters as may be appropriate under  
4 court rules or as set forth in this Settlement.

5 **12. MISCELLANEOUS PROVISIONS**

6 12.1 All of the Parties have been represented by counsel throughout all negotiations that  
7 preceded the execution of this Settlement, and this Settlement is made with the consent and advice  
8 of counsel.  
9

10 12.2 The Parties and Class Members waive their right to seek any form of appellate  
11 review over any order or Judgment that is consistent with the terms of this Settlement.

12 12.3 This Settlement may not be modified or amended, except in a writing that is signed  
13 by the respective counsel of record for the Parties and approved by the Court.

14 12.4 This Settlement and the exhibits hereto constitute the entire agreement between the  
15 Parties concerning the subject matter hereof, and supersede and replace all prior negotiations,  
16 understandings, memoranda of understanding and proposed agreements, written and oral, relating  
17 thereto. No extrinsic oral or written representations or terms shall modify, vary or contradict the  
18 terms of the Settlement unless made in writing and signed by duly authorized representatives of  
19 all Parties and approved in writing by a final order of the Court. No waiver of any term, provision  
20 or condition of this Settlement, whether by conduct or otherwise, in any one or more instance shall  
21 be deemed to be or construed as a further or continuing waiver of any such term, provision or  
22 condition. The Parties and their respective counsel all participated in the negotiation and drafting  
23 of this Settlement and had available to them the advice and assistance of independent counsel.  
24 Thus, no Class Member may claim that any ambiguity in this Settlement should be construed  
25 against Defendant.  
26  
27

1           12.5 This Settlement shall be subject to, governed by, construed, enforced, and  
2 administered in accordance with the laws of the state of California, without giving effect to the  
3 principles of conflict of laws, and shall be subject to the continuing jurisdiction of the Court. This  
4 Settlement shall be construed as a whole according to its fair meaning and intent, and not strictly  
5 for or against any Party, regardless of who drafted or who was principally responsible for drafting  
6 this Settlement or any specific term or condition thereof.

7           12.6 This Settlement may be executed in one or more counterparts, each of which shall  
8 be deemed an original and together shall constitute one and the same instrument. When each of  
9 the Parties has signed at least one such counterpart, this Settlement shall become effective and  
10 binding as to all of the Parties as of the date of the last signature upon the Settlement. Fax or  
11 electronic signatures and copies of signatures shall be deemed as effective as originals.

12           12.7 Except as specifically provided herein, the Parties hereto will bear responsibility  
13 for their own attorneys' fees and costs, taxable or otherwise, incurred by them or arising out of this  
14 Lawsuit, and will not seek reimbursement thereof from any Party to this Settlement. In the event  
15 that legal action arises out of this Settlement or is necessary to enforce any of the terms or  
16 provisions of this Settlement, the prevailing party in the action shall be entitled to recover its  
17 reasonable attorneys' fees and costs.

18           12.8 The Parties and their counsel agree that they will not issue any press releases or  
19 press statements, post any internet disclosures, have any communications with the press or media  
20 about the Lawsuit or this Settlement, or otherwise publicize the terms of this Settlement.  
21 Notwithstanding the foregoing: (a) Class Counsel shall be allowed to refer to the Settlement in  
22 support of other court filings in other litigation; (b) counsel for the Parties shall be allowed to refer  
23 to the Settlement in communications with Class Members; (c) the Parties shall have the right to  
24 disclose the Settlement as may be required under federal or state tax and/or securities laws or under  
25  
26  
27

1 Generally Accepted Accounting Principles; and (d) the Parties shall have the right to disclose the  
2 Settlement to third parties without identifying the case name, case number, or the names of any  
3 parties or released persons or entities, or the industry. The provisions of this paragraph do not  
4 apply to communications between a Party and a Released Party.

5 12.9 Each individual signing this Settlement warrants that he or she has the authority  
6 and is expressly authorized to enter into this Settlement on behalf of the Party for which that  
7 individual signs.  
8

9 12.10 The Settlement shall be binding upon and inure to the benefit of the Parties'  
10 respective successors, assigns, heirs, spouses, marital communities, executors, administrators and  
11 legal representatives.

12 12.11 This Settlement and any and all proceedings or documents arising out of or relating  
13 thereto shall not be construed as an admission of the truth of any allegation or the validity of any  
14 claim asserted or of any liability, nor shall this Settlement, the Settlement contained herein, nor  
15 any papers arising out of or relating thereto be offered or received in evidence or in any way  
16 referred to in any civil or administrative proceeding other than such proceedings as may be  
17 necessary to approve or enforce this Settlement. Class Members are deemed by operation of the  
18 Final Judgment and order of final approval of the Settlement to represent, covenant and warrant  
19 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,  
20 transfer, or encumber to any person or entity any portion of any liability, claim, demand, cause of  
21 action or rights herein released and discharged.  
22

23 12.12 Even after the Final Judgment and notwithstanding it, this Court will have and  
24 retain continuing jurisdiction over the Lawsuit and over all Parties and Class Members, to the  
25 fullest extent necessary or convenient to enforce and effectuate the terms and intent of this  
26 Settlement and all matters provided for in it, and to interpret it.  
27

13. COOPERATION

The Parties shall cooperate fully with one another in seeking Court approval of this Settlement (including all exhibits thereto) and to use their respective best efforts to consummate the Settlement and cause the Judgment to be entered and to become final. No Party to this Settlement shall seek to evade his or its good faith obligations to seek approval and implementation of this Settlement by virtue of any ruling, order, governmental report or other development, whether in the Lawsuit, in any other litigation or otherwise that hereafter might occur and might be deemed to alter the relative strengths of the Parties with respect to any claims or defenses or their relative bargaining power with respect to negotiating. The Parties and their respective counsel of record deem this Settlement to be fair and reasonable and have arrived at this Settlement in arms-length negotiations taking into account all relevant factors, present or potential.

IN WITNESS WHEREOF, each of the undersigned has agreed to and accepted the foregoing terms and conditions by executing this Settlement as of the date indicated below.

IT IS SO AGREED.

Dated: 12-02-2019, 2019

ELIZABETH PARTIDA

Elizabeth Partida

Dated: December 2, 2019

KOUL LAW FIRM

By: Nazo Koulloukian  
Nazo Koulloukian, Esq.  
Attorneys for Plaintiff Elizabeth Partida

[SIGNATURES ON FOLLOWING PAGE]



1 Dated: December 16, 2019

STATER BROS. MARKETS

2 By: Name Brian Stater

3 Title: Secretary

4  
5 Dated: 12-16, 2019

VARNER & BRANDT, LLP

6 By: [Signature]  
7 Brendan Brandt, Esq.  
8 Jeff Olsen, Esq.  
9 Attorney for Defendant Stater Bros. Market

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EXHIBIT A

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EXHIBIT C