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14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF CONTRA COSTA**

17 GENOVEVA HERRERA HERNANDEZ, an
18 individual, on behalf of herself, the State of
19 California, as a private attorney general, and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 v.

23 LAS MONTANAS MARKET, INC., a
24 California corporation; and DOES 1 TO 50,

25 Defendants.
26
27
28

Case No.: C23-00570

**Class Action and PAGA Settlement
Agreement and Release**

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1 **CLAS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE**

2 This Class Action and PAGA Settlement Agreement and Release (“Settlement Agreement”) is
3 made and entered into by: (1) Plaintiff Genoveva Herrera Hernandez (“Plaintiff”), individually and in
4 her representative capacity on behalf of the Settlement Class, as defined below, and as a private attorney
5 general on behalf of the State of California and therewith in her representative capacity on behalf of
6 aggrieved employees under PAGA; and (2) Defendant Las Montanas Market, Inc. (“Defendant”).
7 Plaintiff and Defendant are collectively referred to herein as the “Parties.” This Settlement Agreement
8 is subject to the approval of the Court, pursuant to California Rules of Court, rule 3.769, subdivisions
9 (c), (d), and (e), and is made for the sole purpose of attempting to consummate settlement of the action
10 on a class-wide and PAGA-wide basis subject to the following terms and conditions. As detailed below,
11 if the Court does not enter an order granting final approval of this Settlement Agreement or the
12 conditions precedent stated in Section 1.17 below are not met for any reason, this Settlement
13 Agreement is void and of no force or effect whatsoever. “PAGA” as used in this Settlement Agreement
14 means Labor Code Private Attorney General Act (“PAGA”), codified at California Labor Code sections
15 2698 through 2699.6, et seq.

16 **1. DEFINITIONS**

17 As used in this Settlement Agreement, the following terms shall have the meanings specified
18 below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined
19 below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into
20 this definition section.

21 **1.1. ACTION**

22 “Action” shall mean the following civil action: *Genoveva Herrera Hernandez v. Las Montanas*
23 *Market, Inc.*, case number C23-00570, currently pending before the Superior Court of the State of
24 California for the County of Contra Costa.

25 **1.2. ADMINISTRATIVE EXPENSES**

26 “Administrative Expenses” shall include all costs and expenses associated with and paid to the
27 third-party settlement administrator, which are estimated not to exceed \$15,000.00.

1 **1.3. APPLICABLE WAGE ORDERS**

2 “Applicable Wage Orders” shall mean the California Industrial Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case or the Claims, including IWC Wage Orders 4-2001 and 7-2001 and others that may be applicable. (Cal. Code of Regs., tit. 8, §§ 11040, 11070.)

5 **1.4. CLAIMS**

6 “Claims” shall mean the claims asserted in the Action.

7 **1.5. CLASS ATTORNEY FEES AND EXPENSES**

8 “Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount attributable to attorney fees and litigation expenses and costs. The Parties agree that the fee-portion of the Class Attorney Fees and Expenses shall be up to one-third of the Gross Settlement Amount (i.e., \$150,000.00), as approved by the Court, and the award of costs and expenses shall be up to an additional \$20,000.00. If the Escalator Provision described below is triggered so as to increase the Gross Settlement Amount, the Parties agree that the fee portion of the Class Attorney Fees and Expenses will increase proportionally such that the total amount of attorneys’ fees remains one-third of the Gross Settlement Amount *after* the upward adjustment required by the Escalator Provision is implemented.

17 **1.6. CLASS COUNSEL**

18 “Class Counsel” shall mean Jonathan Melmed and Laura Supanich of Melmed Law Group P.C., and Mehrdad Bokhour of Bokhour Law Group, P.C.

20 **1.7. CLASS MEMBER**

21 “Class Member” shall mean any person who is a prospective member of the Settlement Class, or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or successor-in-interest.

24 **1.8. CLASS NOTICE**

25 “Class Notice” shall mean the *Notice of Proposed Class Action Settlement*, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class Members along with the Share Form.

1 **1.9. CLASS PARTICIPANTS**

2 “Class Participants” shall mean all Class Members who do not timely request exclusion from
3 the Class Settlement.

4 **1.10. CLASS PERIOD**

5 “Class Period” shall mean the period from March 14, 2019, through March 15, 2025.

6 **1.11. CLASS REPRESENTATIVE**

7 “Class Representative” shall mean Plaintiff Genoveva Herrera Hernandez.

8 **1.12. CLASS SETTLEMENT**

9 “Class Settlement” shall mean the entire settlement according to all terms stated in this
10 Settlement Agreement, which is subject to Court approval.

11 **1.13. COMPLAINT**

12 “Complaint” shall mean the currently-operative complaint in the Action.

13 **1.14. COURT**

14 “Court” shall mean the Superior Court of the State of California for the County of Contra Costa.

15 **1.15. DEFENDANT**

16 “Defendant” shall mean Defendant Las Montanas Market, Inc.

17 **1.16. DEFENSE COUNSEL**

18 “Defense Counsel” shall mean the attorneys representing Defendant.

19 **1.17. EFFECTIVE DATE**

20 “Effective Date” shall be the date when all of the following events have occurred: (a) this
21 Settlement Agreement has been executed by all Parties and by Class Counsel and Defense Counsel;
22 (b) the Court has given preliminary approval to the Class Settlement; (c) notice has been given to the
23 Settlement Class providing them with an opportunity to request exclusion from the Class Settlement;
24 (d) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment
25 certifying the Settlement Class and approving this Settlement Agreement; and (e) the later of the
26 following events: (i) the expiration of the period for filing any appeal, writ, or other appellate
27 proceeding opposing the Class Settlement has elapsed without any appeal, writ, or other appellate
28 proceeding having been filed; (ii) the dismissal of any appeal, writ, or other appellate proceeding

1 opposing the Class Settlement with no right to pursue further remedies or relief; or (iii) any appeal,
2 writ, or the issuance of such other final appellate order upholding the Court’s final order with no right
3 to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Class
4 Settlement shall not become effective until the Court’s order approving the Class Settlement is
5 completely final and there is no further recourse by an appellant or objector who seeks to contest the
6 Class Settlement. If no objections or timely appeals are filed, the Effective Date shall be after steps (a)
7 through (d) are completed (i.e., the date that the court has entered a final order and judgment certifying
8 the Settlement Class and approving this Settlement Agreement).

9 **1.18. EMPLOYEE’S TAXES AND REQUIRED WITHHOLDING**

10 “Employee’s Taxes and Required Withholding” shall mean the employee’s share of any and all
11 applicable federal, state, or local payroll taxes, including those collected under authority of the Federal
12 Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State
13 Unemployment Tax Act (SUTA) on the portion of any Class Participant’s Individual Settlement
14 Amount that constitutes wages. The Employee’s Taxes and Required Withholdings will be withheld
15 from and paid out of the Individual Settlement Amounts paid from the Net Settlement Amount.

16 **1.19. EMPLOYER’S TAXES**

17 “Employer’s Taxes” shall mean and refer to Defendant’s share of payroll taxes (e.g.,
18 Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is
19 owed on the portion of any Class Participant’s Individual Settlement Amount that constitutes wages.
20 The Employer’s Taxes shall be separately paid by Defendant and shall not be paid from the Gross
21 Settlement Amount or Net Settlement Amount.

22 **1.20. FINAL APPROVAL AND FAIRNESS HEARING**

23 “Final Approval and Fairness Hearing” shall mean the final hearing held to ascertain the
24 fairness, reasonableness, and adequacy of the Class Settlement.

25 **1.21. GROSS SETTLEMENT AMOUNT**

26 “Gross Settlement Amount” is the agreed upon non-reversionary settlement amount totaling
27 \$450,000.00 to be paid by Defendant in full settlement of the Released Claims, inclusive of the
28 Administrative Expenses, Individual Settlement Amounts for Class Participants, the Employee’s Taxes

1 and Required Withholdings, the Class Attorney Fees and Expenses, the Incentive Award, and PAGA
2 Payment. Defendant shall separately pay its share of the Employer’s Taxes in addition to the Gross
3 Settlement Amount on the portion of each Individual Settlement Amount allocated as wages.
4 Defendant shall pay nothing more than the Gross Settlement Amount under this Settlement Agreement
5 other than Employer’s Taxes, or monetary amounts under the Escalator Provision but only in the event
6 the Escalator Provision is triggered based on the terms in this Settlement Agreement.

7 **1.22. HEARING ON PRELIMINARY APPROVAL**

8 “Hearing on Preliminary Approval” shall mean the hearing held on the motion for preliminary
9 approval of the Class Settlement.

10 **1.23. INCENTIVE AWARD**

11 “Incentive Award” shall mean any additional monetary payment provided to the Class
12 Representative for her efforts and risks on behalf of the Settlement Class in this Action.

13 **1.24. INDIVIDUAL SETTLEMENT AMOUNT**

14 “Individual Settlement Amount” shall mean the amount which is ultimately distributed to each
15 Class Participant, less any Employee’s Taxes and Required Withholdings. The Individual Settlement
16 Amount does not include any portion of the PAGA Payment.

17 **1.25. NET SETTLEMENT AMOUNT**

18 “Net Settlement Amount” shall mean the Gross Settlement Amount minus: Administrative
19 Expenses; Class Attorney Fees and Expenses; the PAGA Payment; and Plaintiff’s Incentive Award.

20 **1.26. OPT OUT**

21 “Opt Out” shall refer to the process of submitting a timely and valid request for exclusion from
22 the Class Settlement in accordance with the terms of the Class Notice and no later than the Response
23 Deadline.

24 **1.27. OPT-OUTS**

25 “Opt-Outs” shall mean all persons who timely and validly request exclusion from the Class
26 Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline.

1 **1.28. PAGA PAYMENT**

2 “PAGA Payment” means the penalties pursuant to PAGA that the Parties have agreed is a
3 reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is
4 \$10,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section 2699
5 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$7,500.00) to the LWDA and
6 twenty-five percent (25%) (i.e., \$2,500.00) to the PAGA Settlement Class. Class Counsel shall give
7 timely notice of this Settlement Agreement to the LWDA pursuant to Labor Code section 2699,
8 subdivision (l)(2).

9 **1.29. PAGA PERIOD**

10 “PAGA Period” shall mean the period from March 14, 2022, through March 15, 2025.

11 **1.30. PAGA SETTLEMENT CLASS AND PAGA RELEASE**

12 “PAGA Settlement Class” shall mean all individuals who are or were employed by Defendant
13 as non-exempt employees in California during the PAGA Period. Plaintiff and the “PAGA Settlement
14 Class” are agreeing to release all claims under the “PAGA Release”. “PAGA Release” shall mean all
15 claims for civil penalties under PAGA based on the labor code violations alleged in the Complaint and
16 the PAGA Notice(s) sent by Plaintiff or Plaintiff’s attorneys to the LWDA, as well as all facts, theories,
17 or claims for civil penalties that would be considered administratively exhausted under applicable law
18 by the PAGA Notice. PAGA Settlement Class members shall receive their portion of the PAGA
19 Payment regardless of their decision to opt out of the class settlement and therefore the PAGA Release
20 would apply to them even if they opt out. “PAGA Notice” means letters, communications, or notices
21 sent by Plaintiff or her attorneys to California Labor and Workforce Development Agency (“LWDA”)
22 relating to the claims in this matter and the Action.

23 **1.31. PARTIES**

24 “Parties” shall mean Plaintiff and Defendant.

25 **1.32. PLAINTIFF**

26 “Plaintiff” shall mean Plaintiff Genoveva Herrera Hernandez.
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1 **1.33. PRELIMINARY APPROVAL DATE**

2 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
3 preliminarily approving this Settlement Agreement.

4 **1.34. RELEASED CLAIMS**

5 “Released Claims” shall mean all California wage and hour claims, damages, penalties, interest,
6 and causes of action, arising from or related to the claims alleged in the Complaint or in the Action, or
7 that could have been alleged or pled in the Complaint based on the allegations in the Complaint, and
8 those asserted in the PAGA Notice(s) to the LWDA, including but not limited to claims for unpaid
9 minimum wages, overtime wages, off-the-clock work time, failure to provide compliant meal breaks,
10 failure to provide compliant rest breaks, inaccurate wage statements, failure to pay all wages owed
11 upon termination, and failure to reimburse for business expenses under the California Labor Code and
12 applicable wage order(s), unfair competition claims under California Business & Professions Code
13 §17200, et seq. and any penalties, restitution, disgorgement, interest or attorneys’ fees, and penalties
14 pursuant to the Labor Code Private Attorneys General Act (“PAGA”) for Violations of California
15 Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194,
16 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and other provisions of the Labor Code during
17 the Class Period and PAGA Period. This release will cover all Class Members who do not opt out.
18 PAGA Members shall receive their portion of the PAGA Payment regardless of their decision to opt
19 out of the class settlement and therefore the PAGA Release would apply to them even if they opt out.

20 No other claims are released other than those claims plead in the Complaint or that are identified
21 or released under the terms of this Settlement Agreement. This Settlement Agreement will not release
22 any person, party, or entity from claims, if any, by Class Members or PAGA Settlement Class members
23 for workers compensation, unemployment, or disability benefits of any nature.

24 **1.35. RELEASED PARTIES**

25 “Released Parties” shall mean Las Montanas Market, Inc., and all of its parents, subsidiaries,
26 affiliates, sister companies, shareholders, owners, members, employees, directors, agents, managing
27 agents, officers, predecessors, successors and assigns, and any person that could be sued under Labor
28 Code Section 558.1, et seq.

1 **1.36. RELEASING PARTIES**

2 “Releasing Parties” shall mean every Class Participant, and the PAGA Settlement Class, and
3 all persons purporting to act on the aforementioned individual(s) behalf or purporting to assert a claim
4 under or through them, including, but not limited to, their dependents, heirs, assigns, beneficiaries,
5 devisees, legatees, executors, administrators, agents, trustees, conservators, guardians, personal
6 representatives, and successors-in-interest, whether individual, class, representative, legal, equitable,
7 direct or indirect, or any other type or in any other capacity.

8 **1.37. RESPONSE DEADLINE**

9 “Response Deadline” shall mean the date forty-five (45) days following the date on which the
10 Settlement Administrator first mails Class Notice to the Class Members and the last day on which Class
11 Members may submit a request for exclusion and/or objection to Class Settlement.

12 **1.38. SETTLEMENT ADMINISTRATOR**

13 “Settlement Administrator” shall mean Apex Class Action Administration which the Parties
14 have agreed will be responsible for administration of the Class Settlement and related matters.

15 **1.39. SETTLEMENT CLASS**

16 “Settlement Class” shall mean all individuals who are or were employed by Defendants as non-
17 exempt employees in California during the Class Period. Defendant represents that the Settlement Class
18 worked a total of approximately 36,552 workweeks during the Class Period.

19 **1.40. SHARE FORM**

20 “Share Form” shall mean the *Class Action Settlement Share Form*, as set forth in the form of
21 **Exhibit 2** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class
22 Members along with the Class Notice.

23 **2. FACTUAL AND PROCEDURAL BACKGROUND**

24 **2.1. PLAINTIFF’S CLAIMS**

25 Plaintiff, individually and in her representative capacity on behalf of the Settlement Class, and
26 as a private attorney general on behalf of the State of California and therewith in her representative
27 capacity on behalf of aggrieved employees under PAGA, has alleged the following violations:
28 **(1)** failure to pay minimum wage for all hours worked in violation of Labor Code sections 1194 and

1 1194.2, and the Applicable Wage Orders; (2) failure to pay proper overtime wages in violation of Labor
2 Code sections 510, 1197, and 1198, and the Applicable Wage Orders; (3) failure to provide compliant
3 rest periods and pay missed rest break premiums in violation of Labor Code section 226.7 and the
4 Applicable Wage Orders; (4) failure to provide compliant meal periods and pay missed meal period
5 premiums in violation of Labor Code sections 226.7 and 512, and the Applicable Wage Orders;
6 (5) failure to maintain accurate employment records in violation of Labor Code section 1174;
7 (6) failure to pay timely wages during employment in violation of Labor Code sections 204, 210;
8 (7) failure to pay all wages due and owing at separation in violation of Labor Code sections 201, 202,
9 and 203; (8) failure to reimburse business expenses in violation of Labor Code sections 2802 and 2804;
10 (9) failure to provide complete and accurate wage statements in violation of Labor Code sections 226
11 and 226.3; (10) deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing
12 in violation of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); and
13 (11) statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–2699.6), and
14 all other claims, interest, penalties and damages in the Complaint.

15 **2.2. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION**

16 Class Counsel has conducted significant informal discovery during the prosecution of the
17 Action. This discovery, investigation, and prosecution has included, among other things, (a) over a
18 dozen telephonic conferences with Plaintiff; (b) inspection and analysis of hundreds of pages of
19 documents and other information produced by Plaintiff and Defendant; (c) analysis of employment
20 data from a sample of Class Members; (d) an analysis of the legal positions taken by Defendant;
21 (d) investigation into the viability of class treatment of the claims asserted in the Action; (e) analysis
22 of potential class-wide damages, including information sufficient to understand Defendant's potential
23 defenses to Plaintiff's claims; (f) research of the applicable law with respect to the claims asserted in
24 the Complaint and the potential defenses thereto; and (g) assembling and analyzing of data for
25 calculating damages.

26 Class Counsel and the Class Representative have vigorously prosecuted this case, and
27 Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and
28 discovery to assess the relative merits of the claims of the Class Representative and of the defenses to

1 them. After such discovery, investigation, and prosecution, the Parties attended a full-day mediation
2 with an experienced employment law mediator, which culminated in a settlement in principle, the terms
3 of which are elaborated in this Settlement Agreement.

4 **2.3. ALLEGATIONS OF THE CLASS REPRESENTATIVE AND BENEFITS OF**
5 **CLASS SETTLEMENT**

6 The document and data exchange in this matter, as well as discussions between counsel, have
7 been adequate to give the Class Representative and Class Counsel a sound understanding of the merits
8 of their positions and to evaluate the value of the claims of the Settlement Class. The informal discovery
9 conducted in this Action and the information exchanged by the Parties through pre-mediation
10 discussions are sufficient to reliably assess the merits of the Parties' respective positions and to
11 compromise the issues on a fair and equitable basis.

12 The Class Representative and Class Counsel believe that the claims, causes of action,
13 allegations, and contentions asserted in the Action have merit. However, the Class Representative and
14 Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings
15 necessary to prosecute the Action against Defendant through trial and through appeals. Class Counsel
16 has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex
17 actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential
18 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the class.
19 Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
20 alleged in the Action.

21 The Class Representative and Class Counsel believe that the settlement set forth in this
22 Settlement Agreement confers substantial benefits upon Plaintiff and the Settlement Class and that an
23 independent review of this Settlement Agreement by the Court in the approval process will confirm
24 this conclusion. Based on their own independent investigation and evaluation, Class Counsel has
25 determined that the settlement set forth in this Settlement Agreement is in the best interests of Plaintiff
26 and the Class Members.

1 **2.4. DEFENDANT’S DENIALS OF WRONGDOING AND LIABILITY**

2 Defendant has denied and continues to deny all allegations, claims, and contentions alleged by
3 Plaintiff in the Action. Defendant has expressly denied and continues to deny all charges of wrongdoing
4 or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the
5 Action and PAGA Notice(s). Defendant contends that it complied with California and federal wage
6 and hour laws and has dealt legally and fairly with Plaintiff and the Class Members.

7 Defendant further denies that, for any purpose other than settling this Action, these claims are
8 appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further
9 proceedings in the Action would be protracted and expensive and that it is desirable that the Action be
10 fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement
11 Agreement to dispose of burdensome and protracted litigation, to permit the operation of Defendant’s
12 respective businesses without further expensive litigation and the distraction and diversion of their
13 personnel with respect to matters at issue in the Action. Defendant has also taken into account the
14 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
15 Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled
16 in the manner and upon the terms and conditions set forth in this Settlement Agreement.

17 **2.5. INTENT OF THE CLASS SETTLEMENT**

18 The Class Settlement set forth herein intends to achieve the following: (1) entry of an order
19 approving the Class Settlement; (2) entry of judgment of the Action; (3) discharge of the Released
20 Parties from liability for any and all of the Released Claims and all claims identified herein; and
21 (4) discharge of Defendant from liability for any and all claims arising out of the Action.

22 **3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

23 For the purposes of this Settlement Agreement and the Class Settlement of this Action only, the
24 Parties agree to conditional class certification of the Settlement Class. Defense Counsel believes this
25 conditional certification is appropriate because the Released Claims are being compromised without
26 need to establish the elements of those claims on which liability turns. The certification of the
27 Settlement Class shall not constitute, in this or any other proceeding, an admission of any kind by
28 Defendant, including without limitation, that certification of a class for trial purposes is or would be

1 warranted, appropriate or proper; or that Plaintiff could establish any of the requisite elements for class
2 treatment of any of the claims in the Action.

3 If the Settlement Agreement is not finally approved by the Court, the Effective Date is not
4 achieved, or the Class Settlement is rejected, terminated, or otherwise rendered null and void as set
5 forth herein, then certification of the Settlement Class shall be automatically vacated, shall be void *ab*
6 *initio*, of no force or effect, and shall not constitute evidence or a binding determination that the
7 requirements for certification of a class for trial purposes in this Action or in any other action which
8 have been, are or can be, satisfied. Further, if the Agreement does not reach the Effective Date, Plaintiff
9 agrees that Plaintiff will not argue, claim, reference, or otherwise raise any preliminary approval of the
10 Settlement Class in connection with any later proceeding before the Court.

11 **4. APPOINTMENT OF CLASS COUNSEL**

12 For purposes of this Settlement Agreement and subject to the Court's approval, the Parties agree
13 to the appointment of Class Counsel as counsel for the Settlement Class and the effectuation of the
14 Class Settlement pursuant to this Settlement Agreement.

15 **5. CONSIDERATION AND PAYMENT TERMS**

16 **5.1. SETTLEMENT AMOUNT AND INSTALLMENTS**

17 The Parties agree to settle this Action for the non-reversionary Gross Settlement Amount of
18 \$450,000.00(Four Hundred Fifty Thousand Dollars and Zero Cent), to be paid in installments by
19 Defendant as follows: (1) 34% upon 30 calendar days after the Effective Date; (2) 33% upon 180
20 calendar days after the Effective Date; and (3) 33% upon 270 calendar days after the Effective Date.

21 There shall be no reversion to Defendant. Defendant shall pay the Gross Settlement Amount in
22 full. The Gross Settlement Amount and other actions and forbearances taken by Defendant shall
23 constitute adequate consideration for the Class Settlement and will be made in full and final settlement
24 of: the Released Claims, the Class Attorney Fees and Expenses, Administrative Expenses, the Incentive
25 Award, the PAGA Payment (and any payments to individual PAGA Class Members resulting from the
26 PAGA Payment), and any other obligation of Defendant under this Settlement Agreement (other than
27 the Employer's Taxes on the portion of the Net Settlement Amount allocated to the payment of wages).

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1 After the Court issues an order preliminarily approving this Class Settlement, the Settlement
2 Administrator will distribute the Class Notice to the Class Members, which shall describe the terms of
3 the Class Settlement and procedures to Opt Out, object, or participate in the Class Settlement as well
4 as the Share Form, which shall identify the Class Member, the number of workweeks worked by each
5 Class Member (“Workweeks”), as well as the estimated amount of the Individual Settlement Amount
6 the Class Member can expect to receive once the Class Settlement becomes effective on the Effective
7 Date. Class Members shall be given the opportunity to challenge their Workweeks information.

8 **5.2. INCENTIVE AWARD FOR PLAINTIFF**

9 Plaintiff may petition the Court to approve an Incentive Award in an amount up to \$10,000.00
10 for Genoveva Herrera Hernandez to acknowledge her efforts on behalf of the Settlement Class in this
11 Action, including assisting in the investigation and consulting with Class Counsel and providing crucial
12 documents to Class Counsel. Defendant shall not oppose any request by Plaintiff for an Incentive
13 Award in such an amount. Any Incentive Award approved by the Court shall be paid to Plaintiff from
14 the Gross Settlement Amount and shall be in addition to any distribution to which she may otherwise
15 be entitled as a Class Participant. Any Incentive Award approved by the Court shall not be considered
16 wages, and the Settlement Administrator shall issue to Plaintiff an IRS Form 1099 reflecting such
17 payment. Plaintiff shall be responsible for the payment of all taxes with respect to any Incentive Award
18 approved by the Court and shall hold Defendant harmless from all liability with regard thereto.

19 **5.3. PAYMENT TO CLASS PARTICIPANTS**

20 Each Class Participant shall be eligible to receive payment of the Individual Settlement
21 Amount, which is a share of the Net Settlement Amount based on the pro rata number of weeks worked
22 by the Class Members during the Class Period as a proportion of all weeks worked by all Class
23 Members. Each Class Participant, including Plaintiff, shall be responsible for the payment of the
24 Employee’s Taxes and Required Withholding with respect to his or her Individual Settlement Amount
25 and shall hold Defendant harmless from any and all liability with regard thereto.

26 **5.4. PAYMENT TO PAGA SETTLEMENT CLASS**

27 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
28 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have

1 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
2 is \$10,000.00. The PAGA Payment must be approved by the Court pursuant to Labor Code section
3 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$7,500.00) to the LWDA and
4 twenty-five percent (25%) (i.e., \$2,500.00) to the PAGA Settlement Class. The portion of the PAGA
5 Payment allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement Class
6 based on the pro rata number of pay periods worked by each particular PAGA Settlement Class member
7 during the PAGA Period as a proportion of all pay periods worked by all members of the PAGA
8 Settlement Class.

9 **5.5. TAX TREATMENT AND PAYMENT**

10 For the purpose of calculating Employee's Taxes and Required Withholding for the Individual
11 Settlement Amounts for Class Participants (including any payments to the Class Representative but
12 exclusive of her Incentive Award), the Parties agree that 20% of each Individual Settlement Amount
13 shall constitute payment in the form of wages (and each Class Participant will be issued an IRS Form
14 W-2 for such payment to him or her), and 80% of each Individual Settlement Amount shall constitute
15 penalties and interest (and each Class Participant will be issued an IRS Form 1099 for such payment
16 to him or her). Prior to final distribution, the Settlement Administrator shall calculate the total
17 Employee's Taxes and Required Withholding due as a result of the wage portion of Class Participants'
18 anticipated Individual Settlement Amounts and such actual amount will be deducted from the Net
19 Settlement Amount. Additionally, prior to the funding of the Gross Settlement Amount and final
20 distribution, the Settlement Administrator shall calculate the total Employer's Taxes due on the wage
21 portion of the Class Participants' Individual Settlement Amounts and issue instructions to Defendant
22 to separately fund these tax obligations/withholdings. The Parties understand that Plaintiff and the
23 Class Participants who receive any payment pursuant to this Settlement Agreement shall be solely
24 responsible for all other individual tax obligations.

25 With respect to the PAGA Payment and any payments made to individual members of the
26 PAGA Settlement Class, all such payments shall be treated as payments owing for penalties and interest
27 thereon and shall not be considered wages. The Settlement Administrator shall issue to members of the
28 PAGA Settlement Class an IRS Form 1099 reflecting such payment. Members of the PAGA Settlement

1 Class shall be solely responsible for the payment of all taxes with respect to any PAGA payments made
2 to them.

3 **5.6. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

4 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
5 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
6 program sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
7 benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies,
8 or bonus programs. The payments made under the terms of this Settlement Agreement shall not be
9 applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other
10 form of compensation for the purposes of any of Defendant's benefit plan, policy, or bonus program.
11 Defendant retains the right to modify the language of its benefits plans, policies, and bonus programs
12 to reflect this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are
13 not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring term as defined
14 by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or
15 any other purpose, and that additional contributions or benefits are not required by this Settlement
16 Agreement. Defendant does not consider the Class Settlement payments "compensation" for purposes
17 of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs,
18 or any other plan sponsored by Defendant.

19 **5.7. CLASS ATTORNEY FEES AND EXPENSES**

20 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
21 an award of Class Attorney Fees and Expenses with the fee portion not to exceed one-third of the Gross
22 Settlement Amount (i.e., \$150,000.00) and the award of costs and expenses up to an additional
23 \$20,000.00. Defendant agrees to not object to any such fee, cost, or expense application in those
24 amounts.

25 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
26 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
27 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
28 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for

1 Class Attorney Fees and Expenses or the Court’s award of Class Attorney Fees and Expenses is less
2 than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
3 Attorney Fees and Expenses awarded.

4 The Class Attorney Fees and Expenses approved by the Court shall reflect: (a) all work
5 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
6 represent the Settlement Class through the date of this Settlement Agreement; (b) all work to be
7 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;
8 (c) all work to be performed and costs and expenses, if any, incurred in connection with administering
9 the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and (d) may
10 be based on the “catalyst theory” and/or the “common fund doctrine.”

11 **6. SETTLEMENT ADMINISTRATION**

12 **6.1. COSTS AND EXPENSES**

13 All costs and expenses due to the Settlement Administrator in connection with its administration
14 of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class
15 Members, processing Opt Out requests and objections, distributing the portion of the PAGA Payment
16 payable to the LWDA, distributing the portion of the PAGA Payment payable to the members of the
17 PAGA Settlement Class, and calculating, administering and distributing Individual Settlement
18 Amounts to the Class Participants and related tax forms, shall be paid from the Gross Settlement
19 Amount, and is not expected to exceed \$15,000.00.

20 **6.2. PAYMENT BY DEFENDANT**

21 Defendant shall deposit the Gross Settlement Amount in a lump sum payment plus the
22 employer-side payroll taxes to the Settlement Administrator within seven (7) days of the Effective
23 Date. In no event shall Defendant be obligated to pay or deposit with the Settlement Administrator
24 more than \$450,000.00 plus the Employer’s Taxes, except where the Escalator Provision is triggered.

25 **7. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS**

26 **7.1. THE SETTLEMENT ADMINISTRATOR**

27 The Settlement Administrator will be responsible for: mailing the Class Notice and Share Form
28 (Exhibit 1 and Exhibit 2, respectively) to Class Members; posting notice of entry of final order and

1 judgment certifying the Class Settlement and approving this Settlement Agreement; handling inquiries
2 from Class Members concerning the Class Notice; determining Individual Settlement Amounts;
3 determining individual payments to members of the PAGA Settlement Class; maintaining the
4 settlement funds in an appropriate interest-bearing account; preparing, administrating, and distributing
5 Individual Settlement Amounts to Class Participants; preparing, administrating, and distributing
6 individual payments to members of the PAGA Settlement Class; distributing the portion of the PAGA
7 Payment payable to the LWDA; issuing a final report and performing such other duties as the Parties
8 may direct. Additionally, the Settlement Administrator will handle all tax document preparation and
9 reporting, including state and federal tax forms, if any.

10 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
11 Defense Counsel with summary information updating them as to the number of validated and timely
12 objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and
13 Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no
14 later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel
15 with proof of mailing of the Class Notice, without listing individual Class Member names which the
16 Settlement Administrator will file with the Court at the time Class Counsel files its motion in support
17 of the Court's Final Approval and Fairness Hearing.

18 No later than thirty (30) days prior to the Final Approval and Fairness Hearing, the Settlement
19 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
20 information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class
21 Participant, without any identifying personal information; **(b)** the number of Class Participants to
22 receive such payments, and **(c)** the final number of Opt-Outs and objections.

23 Administrative Expenses are not anticipated to exceed \$15,000.00. Prior to the calculation and
24 distribution of the Individual Settlement Amounts, the Settlement Administrator shall calculate the
25 total Administrative Expenses through the conclusion of their services and such actual amount will be
26 deducted from the Gross Settlement Amount prior to the final calculation of the Individual Settlement
27 Amounts.

1 **7.2. NOTICE TO CLASS MEMBERS**

2 Notice shall be provided to Class Members in the following manner: Within fourteen (14) days
3 after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with an
4 updated list of Class Members and members of the PAGA Settlement Class containing names, social
5 security numbers, dates of employment, last-known addresses, and phone numbers (the “Database”).
6 The Database shall be marked “Confidential – Settlement Administrator’s Eyes Only.” Class Counsel
7 shall not receive a copy of this list.

8 Within twenty-eight (28) days following the Preliminary Approval Date, the Settlement
9 Administrator shall determine the number of workweeks worked by each Class Member, populate the
10 data for each Class Member accordingly, and send each Class Member the Class Notice via first-class,
11 United States mail. The Class Notice shall also contain an easily-understood statement alerting the
12 Class Members that, unless they elect to Opt Out of the Class Settlement, the Class Member is releasing
13 and waiving all Released Claims against the Released Parties. Defendant has the right to and can object
14 to the calculation of workweeks by the Settlement Administrator. If the number of workweeks cannot
15 be resolved following objections made by Defendant, then the Court will ultimately decide the number
16 of workweeks.

17 The Class Notice will inform Class Members of their estimated share of the settlement and the
18 number of workweeks they worked during the Class Period. Class Members may dispute their
19 workweeks if they believe they worked more weeks in the Class Period than Defendant’s records show
20 by submitting information to the Settlement Administrator no later than forty-five (45) days after being
21 mailed the Class Notice and Share Form by the Settlement Administrator, which is the defined
22 Response Deadline. The Settlement Administrator will jointly work with Plaintiff and Defendant to
23 resolve the dispute in good faith. If Plaintiff and Defendant cannot agree over the workweeks to be
24 credited, the Settlement Administrator shall make the final decision based on the information presented
25 by the Class Member and Defendant.

26 **7.3. OPT OUT PROCEDURE**

27 Class Members who do not timely Opt Out of the Class Settlement will be deemed to participate
28 in the Class Settlement and shall become Class Participants without having to submit a claim form or

1 take any other action. To Opt Out of the Class Settlement, the Class Member must submit a letter or
2 postcard to the Settlement Administrator by the Response Deadline. This letter or postcard must be
3 received by the Class Administrator. The Opt Out request must state the Class Member's name,
4 address, telephone number, and signature. The Opt Out request should state something to the effect of:

5
6 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE
7 *GENOVEVA HERRERA HERNANDEZ V. LAS MONTANAS MARKET, INC.*
8 LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE
9 SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS
10 SETTLEMENT PORTION OF THIS LAWSUIT AND WILL NOT BE RELEASING
11 ANY CLAIMS I MIGHT HAVE, EXCEPT AS OTHERWISE STATED IN THE
12 SETTLEMENT AGREEMENT FOR PAGA-RELATED PENALTIES."

13 Any Opt Out request that is not postmarked by the Response Deadline will be invalid. If prior
14 to the Response Deadline any Class Notice mailed to a Class Member is returned as having been
15 undelivered by the United States Postal Service, the Settlement Administrator shall perform a skip trace
16 search and seek an address correction for such Class Members, and a second Class Notice will be sent
17 to any new or different address obtained. Such Class Members shall have an additional fourteen (14)
18 days from the date of the mailing of the second Class Notice in which to Opt Out, object, or dispute
19 the information provided in the Share Form if the Response Deadline would have otherwise passed
20 prior to fourteen (14) days from the date of the mailing of the second Class Notice.

21 It will be presumed that, if an envelope containing the Class Notice has not been returned within
22 thirty (30) days of the mailing, the Class Member received the Class Notice. At least twenty-one (21)
23 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
24 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
25 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
26 specify the number of Class Members to whom the Class Notice was sent and the number of Class
27 Members to whom the Class Notice was not delivered, as well as information relating to the number
28 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

1 If the Settlement Administrator determines that an Opt Out request returned by a Class Member
2 before the Response Deadline is deficient, then the Settlement Administrator shall mail a deficiency
3 letter to that Class Member identifying the problem. If a Class Member submits both a dispute and an
4 Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify as if the Opt
5 Out request were deficient. If the Class Member fails to cure the deficiency, the Opt Out request shall
6 be disregarded and the claim will be paid, and the Class Member will become bound by the judgment.

7 Class Participants will be bound by the Release of Released Claims set forth in the definition
8 of "Released Claims" provided in this Settlement Agreement.

9 A request to Opt Out of the Class Settlement shall *not* serve to exclude the Class Member from
10 participation in the PAGA Settlement Class. Opt-Outs shall still be entitled to their share of the PAGA
11 Payment. Class Members who are also members of the PAGA Settlement Class shall have no right or
12 ability to opt out of the portion of this Settlement Agreement releasing PAGA claims under the PAGA
13 Release.

14 **7.4. OBJECTION PROCEDURE**

15 The Class Notice shall inform the Class Members of their right to object to the Class Settlement
16 if they do not Opt Out. Any Class Participants who wish to object to the Class Settlement may submit
17 a written objection to the Settlement Administrator no later than the Response Deadline. Only Class
18 Participants may object to the Settlement. The objection should include the case name and number and
19 must set forth, in clear and concise terms, a statement of the reasons why the objector believes that the
20 Court should find that the proposed Class Settlement is not in the best interest of the Settlement Class
21 and the reasons why the Class Settlement should not be approved, including the legal and factual
22 arguments supporting the objection. If an objector also wishes to appear at the Final Approval and
23 Fairness Hearing, in person or through an attorney, they may do so. The Settlement Administrator will
24 promptly serve copies of any objection or notice of intention to appear on Class Counsel and Defense
25 Counsel. Class Members wishing to make an objection may appear at the Final Approval and Fairness
26 Hearing, either in person or through a lawyer retained at their own expense.

1 **7.5. NOTICE OF FINAL JUDGMENT**

2 Within seven (7) days after the Court has held a Final and Fairness Approval Hearing and
3 entered a final order certifying the Class for settlement purposes only and approving the Class
4 Settlement, the Settlement Administrator will give notice of judgment to Class Members pursuant to
5 rule 3.771(b) of the California Rules of Court, by posting a copy of said order and final judgment on
6 its website at a web address to be included in the Class Notice.

7 **8. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

8 **8.1. ALLOCATION OF THE GROSS SETTLEMENT AMOUNT**

9 The claims of all Class Members are settled for the Gross Settlement Amount of \$450,000.00,
10 which will be allocated as follows:

- 11 1. The Administrative Expenses, estimated not to exceed \$15,000.00;
- 12 2. Class Counsel’s attorney fees not to exceed \$150,000.00;
- 13 3. Class Counsel’s litigation costs and expenses not to exceed \$20,000.00;
- 14 4. The Incentive Award, not to exceed \$10,000.00; and
- 15 5. PAGA Payment to LWDA of \$7,500.00,
- 16 6. And include Individual Settlement Amounts and other payments as stated herein.

17 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement
18 Administrator shall calculate the estimated Net Settlement Amount based on the estimated values
19 provided above prior to sending Notice to the Class Members. Prior to final distribution, the Settlement
20 Administrator shall recalculate the final Net Settlement Amount based on the actual values of the
21 amounts in each category.

22 **8.2. CALCULATION OF THE INDIVIDUAL SETTLEMENT AMOUNTS FOR**
23 **CLASS PARTICIPANTS**

24 Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net
25 Settlement Amount. The portion of the Net Settlement Amount shall be distributed pro rata on a
26 “checks cashed” basis based on the proportional number of weeks worked by each Class Member
27 during the Class Period.

1 Defendant will provide the Settlement Administrator with data in response to reasonable
2 requests for information that is readily available to Defendant and necessary to perform the calculation
3 of number of workweeks for each Class Member, and any other reasonably required information the
4 Settlement Administrator requests to perform the calculations required under this Settlement
5 Agreement. Defendant shall have no responsibility for deciding the validity of the Individual
6 Settlement Amounts or any other payments made pursuant to this Settlement Agreement, shall have no
7 involvement in or responsibility for the determination or payment of Employee's Taxes and Required
8 Withholding, and shall have no liability for any errors made with respect to such Employee's Taxes
9 and Required Withholding. Although the Settlement Administrator will calculate and pay the standard
10 Employee's Taxes and Required Withholding on the portion of the Individual Settlement Amounts
11 constituting wages on their behalf, Plaintiff and Class Participants represent and understand that they
12 shall be solely responsible for any and all tax obligation associated with their respective Individual
13 Settlement Amounts and Incentive Awards.

14 **8.3. CALCULATION OF THE PAYMENTS FOR INDIVIDUAL MEMBERS OF**
15 **THE PAGA SETTLEMENT CLASS**

16 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
17 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
18 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
19 is \$10,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section
20 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$7,500.00) to the LWDA and
21 twenty-five percent (25%) (i.e., \$2,500.00) to the PAGA Settlement Class.

22 The portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed
23 to the PAGA Settlement Class based on the pro rata number of pay periods worked by each particular
24 PAGA Settlement Class member during the PAGA Period as a proportion of all pay periods worked
25 by all PAGA Settlement Class members during the PAGA Period. Each member of the PAGA
26 Settlement Class, including Plaintiff, shall be responsible for the payment of the Employee's Taxes and
27 Required Withholding with respect to their share of the PAGA Payment and shall hold Defendant
28 harmless from any and all liability with regard thereto.

1 Defendant will provide the Settlement Administrator with data in response to reasonable
2 requests for information that is readily available to Defendant and reasonably necessary to perform the
3 calculation of number of pay periods worked for each PAGA Settlement Class member, and any other
4 reasonably required information the Settlement Administrator requests to perform the calculations
5 required under this Settlement Agreement. Defendant shall have no responsibility for deciding the
6 validity of the individual payment amounts allocated to each member of the PAGA Settlement Class
7 or any other payments made pursuant to this Settlement Agreement, shall have no involvement in or
8 responsibility for the determination or payment of Employee's Taxes and Required Withholding, and
9 shall have no liability for any errors made with respect to such Employee's Taxes and Required
10 Withholding.

11 The members of the PAGA Settlement Class shall be solely responsible for any and all tax
12 obligation associated with their respective shares of the PAGA Payment.

13 **8.4. TIME FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

14 The Settlement Administrator shall distribute to Class Counsel any attorney fees and expenses
15 approved by the Court no later than fourteen (14) days after Defendant's installments under this
16 Settlement Agreement.

17 **8.5. TIME FOR PAYMENT OF INCENTIVE AWARD**

18 The Settlement Administrator shall distribute to Plaintiff the Incentive Award approved by the
19 Court no later than fourteen (14) days after Defendant's installments under this Settlement Agreement.

20 **8.6. TIME FOR PAYMENT OF PAGA PAYMENT TO THE LWDA**

21 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
22 due to it and approved by the Court no later than fourteen (14) days after Defendant's installments
23 under this Settlement Agreements.

24 **8.7. TIME FOR PAYMENT OF TAXES AND REQUIRED WITHHOLDING AND**
25 **INDIVIDUAL SETTLEMENT AMOUNTS**

26 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
27 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
28 the Individual Settlement Amount to each Class Participant, by first-class United States mail, to the

1 last-known address no later than fourteen (14) days after the Effective Date. If the Settlement
2 Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel
3 and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required
4 Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no
5 circumstances shall the Settlement Administrator distribute checks to Class Participants until all
6 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
7 remaining monetary obligations have been calculated and accounted for.

8 Within two hundred ten (210) days of mailing the Individual Settlement Amounts to Class
9 Participants, the Settlement Administrator shall file with the Court and provide to Class Counsel a
10 declaration of payment. If any Class Participant is deceased, payment shall be made payable to the
11 estate of that Class Member and delivered to the executor or administrator of that estate, unless the
12 Settlement Administrator has received an affidavit or declaration pursuant to California Probate Code
13 section 13101, in which case payment shall be made to the affiant(s) or declarant(s).

14 **8.8. NON-CASHED SETTLEMENT CHECKS**

15 Any funds associated with checks that have not been cashed within one hundred eighty (180)
16 days, will become void and the Individual Settlement Amount associated with the uncashed check will
17 be remitted pursuant to Code of Civil Procedure section 384 to the California State Controller for
18 deposit in the Unclaimed Property Fund in the name of the individual whose check was uncashed. The
19 Parties agree that this disposition results in no "unpaid residue" within the meaning of California Civil
20 Procedure Code section 384, as the entire Net Settlement Amount will be paid out to Class Participants,
21 whether or not they all cash their Individual Settlement Amount checks. Therefore, Defendant shall not
22 be required to pay any interest on said amount.

23 **8.9. DISPUTES REGARDING CLASS MEMBER WORKWEEKS DATA OR** 24 **PAYMENT OF INDIVIDUAL SETTLEMENT SHARES**

25 Class Member Workweeks and the corresponding Individual Settlement Amount shall be
26 calculated using the employment and payroll records of Defendant that can be provided, which
27 presumptively shall be deemed to be full, complete, and accurate for purposes of this Settlement
28 Agreement. To overcome that presumption, any Class Member objecting to the accuracy of the number

1 of Workweeks or amount of the Individual Settlement Amount must submit documentary evidence,
2 such as pay stubs or other written employment records, to the Settlement Administrator. Each Class
3 Member may dispute the number of Workweeks or their estimated Individual Settlement Amount
4 contained on their Class Notice (“Workweeks Dispute”). Any such Workweeks Dispute must be mailed
5 or faxed to the Settlement Administrator by the Class Member, postmarked or fax-stamped on or before
6 the Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes
7 to counsel for Defendant, shall inform Class Counsel of the dispute without disclosing the identity of
8 the Class Member making the dispute, and shall immediately attempt to resolve all such disputes
9 directly with relevant Class Members with the assistance of Defendant, Defense Counsel, and Class
10 Counsel. If the dispute cannot be resolved, it shall be submitted to the Settlement Administrator for its
11 final, non-appealable decision. The Settlement Administrator shall use its best efforts to resolve all
12 such disputes prior to the Effective Date. If, however, a dispute arises or is not resolved until after the
13 Settlement Amount has been distributed, the initial calculation shall stand (as Defendant shall be under
14 no obligation to pay any amounts in excess of the Gross Settlement Amount under this Settlement
15 Agreement).

16 **9. NULLIFICATION OF THIS SETTLEMENT AGREEMENT**

17 **9.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT**

18 The Class Settlement and conditional class certification shall be considered null and void, and
19 neither the Class Settlement, conditional class certification, nor any of the related negotiations or
20 proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in the
21 same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with
22 the Court, if any of the following occur: (a) the Court should for any reason fail to approve this
23 Settlement Agreement in the form agreed to by the Parties; (b) the Court should for any reason fail to
24 enter a judgment with prejudice of the Action, or (c) the approval of the Class Settlement and judgment
25 is reversed, modified, or declared or rendered void. Notwithstanding the foregoing, the Parties may if
26 they chose to do so attempt in good faith to cure any perceived defects in this Settlement Agreement to
27 facilitate approval.

1 **9.2. PARTIES' RIGHTS TO VOID CLASS SETTLEMENT; ESCALATOR**
2 **PROVISION**

3 In the event the qualifying workweeks worked by Class Members during the Class
4 Period/PAGA Period increase by more than 10% by the end of the Class Period/PAGA Period,
5 Defendant shall have the option to either: (i) increase the GSA on a pro-rata basis equal to the
6 percentage increase in the number of workweeks worked by the Class Members above 10% (for
7 example, if the number of workweeks increases by 11%, the GSA will increase by 1%) or (ii) shorten
8 the release period to an earlier date at which time only the represented number of workweeks plus 10%
9 are covered by the Class Period/PAGA Period.

10 **9.3. INVALIDATION**

11 Invalidation by the Court of any material portion of this Settlement Agreement shall invalidate
12 the Class Settlement in its entirety, unless the Parties subsequently agree in writing that the remaining
13 provisions of the Class Settlement are to remain in full force and effect.

14 **9.4. STAY ON APPEAL**

15 If a timely appeal is taken from the approval of the Class Settlement and judgment, the judgment
16 shall be stayed, and Defendant shall not be obligated to fund the Gross Settlement Amount or take any
17 other actions required by this Settlement Agreement until all appeal rights have been exhausted by
18 operation of law.

19 **10. MOTIONS FOR COURT APPROVAL**

20 **10.1. PRELIMINARY APPROVAL**

21 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
22 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
23 Settlement. Each party shall cooperate to present the Class Settlement to the Court for preliminary
24 approval in a timely fashion.

25 **10.2. FINAL APPROVAL**

26 The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval
27 and Fairness Hearing, Plaintiff shall move the Court for the entry of the final order certifying the
28 Settlement Class for settlement purposes only and approving the Class Settlement as being fair,

1 reasonable, and adequate to the Class Participants within the meaning of California Rules of Court,
2 Rule 3.769, subdivisions (c), (d) and (e), and for the entry of a final judgment of the Action consistent
3 with the terms of the Class Settlement and rule 3.769, subdivision (h), of the California Rules of Court.
4 Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as may
5 be required for the Court's determination.

6 **11. RELEASES AND WAIVERS**

7 **11.1. RELEASE OF CLAIMS BY THE SETTLEMENT CLASS**

8 Upon the Effective Date, the Releasing Parties shall be deemed to each release the Released
9 Parties, and each of them, of and from any and all Released Claims arising during the Class Period. It
10 is the desire of the Parties and the Releasing Parties to fully, finally, and forever settle, compromise,
11 and discharge the Released Claims. Each of the Releasing Parties, including each Class Participant,
12 will be bound by the release of Released Claims as a result of the Class Settlement and to the terms of
13 the final judgment and the satisfaction of such judgment.

14 Class Participants will be deemed to have acknowledged and agreed that their claims for wages
15 and/or penalties in the Action are disputed, and that their Individual Settlement Amount constitutes
16 payment of all sums allegedly due to them. Class Participants will be deemed to have acknowledged
17 and agreed that California Labor Code section 206.5 is not applicable to the Individual Settlement
18 Amount. That section provides in pertinent part as follows:

19 "An employer shall not require the execution of a release of a claim or right on account
20 of wages due, or to become due, or made as an advance on wages to be earned, unless
21 payment of those wages has been made."
22

23 **11.2. RELEASE OF CLAIMS BY PLAINTIFF**

24 Plaintiff, on behalf of herself and her dependents, heirs and assigns, beneficiaries, devisees,
25 legatees, executors, administrators, agents, trustees, conservators, guardians, personal representatives,
26 and successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect,
27 or any other type or in any other capacity, shall and does hereby forever release, discharge and agree
28 to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities,

1 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,
2 demands, costs, losses, debts and expenses (including attorney fees and costs), known or unknown, at
3 law or in equity, which she may now have or may have after the signing of this Settlement Agreement,
4 arising out of or in any way connected with her employment with Defendant including but not limited
5 to the Released Claims, claims that were asserted or could have been asserted in the Complaint, and
6 any and all transactions, occurrences, or matters between the Parties, or acts or omissions of the
7 Released Parties, occurring up to and including the date this Settlement Agreement is fully executed.
8 Without limitation and including the foregoing, this release shall include, but not be limited to, any and
9 all claims under: **(a)** the Americans with Disabilities Act; **(b)** Title VII of the Civil Rights Act of 1964;
10 **(c)** the Civil Rights Act of 1991; **(d)** 42 U.S.C. § 1981; **(e)** the Age Discrimination in Employment Act;
11 **(f)** the Fair Labor Standards Act; **(g)** the Equal Pay Act; **(h)** the Employee Retirement Income Security
12 Act, as amended; **(i)** the Consolidated Omnibus Budget Reconciliation Act; **(j)** the Rehabilitation Act
13 of 1973; **(k)** the Family and Medical Leave Act; **(l)** the Civil Rights Act of 1966; **(m)** the California
14 Fair Employment and Housing Act; **(n)** the California Constitution; **(o)** the California Labor Code;
15 **(p)** the California Government Code; **(q)** the California Civil Code; and **(r)** any and all other federal,
16 state, and local statutes, ordinances, regulations, rules, and other laws, and any and all claims based on
17 constitutional, statutory, common law, or regulatory grounds as well as any other claims based on
18 theories of wrongful or constructive discharge, breach of contract or implied contract, fraud,
19 misrepresentation, promissory estoppel, or intentional infliction of emotional distress, negligent
20 infliction of emotional distress, or damages under any other federal, state, or local statutes, ordinances,
21 regulations, rules, or laws. This release is for any and all relief, no matter how denominated, including,
22 but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious
23 damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney fees and
24 costs, and Plaintiff hereby forever releases, discharges and agrees to hold harmless Defendant and the
25 Released Parties from any and all claims for attorney fees and costs arising out of the matters released
26 in this Settlement Agreement.

27 Plaintiff specifically acknowledges that she is aware of and familiar with the provisions of
28 California Civil Code section 1542, which provides as follows:

1 “A general release does not extend to claims that the creditor or releasing party does not
2 know or suspect to exist in his or her favor at the time of executing the release and that,
3 if known by him or her, would have materially affected his or her settlement with the
4 debtor or released party.”

5 Plaintiff, being aware of California Civil Code section 1542, hereby expressly waives and
6 relinquishes all rights and benefits she may have under section 1542 as well as any other statutes or
7 common law principles of a similar effect. Plaintiff may hereafter discover facts in addition to or
8 different from those which she now knows or believes to be true with respect to the subject matter of
9 all the claims referenced herein, but agrees that, upon the Effective Date, Plaintiff shall and hereby
10 does fully, finally, and forever settle and release any and all claims against the Released Parties, known
11 or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have
12 been asserted upon any theory of law or equity without regard to the subsequent discovery of existence
13 of such different or additional facts.

14 **11.3. CIRCULAR 230 DISCLAIMER**

15 Each party to this Settlement Agreement (for purposes of this section, the “Acknowledging
16 Party”; and each party to this Agreement other than the Acknowledging Party, an “Other Party”)
17 acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written
18 communication or disclosure between or among the parties or their attorneys and other advisers, is or
19 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
20 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
21 C.F.R. Part 10); (2) the Acknowledging Party (a) has relied exclusively upon her or its own
22 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
23 Agreement, (b) has not entered into this Settlement Agreement based upon the recommendation of any
24 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
25 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that
26 may be imposed on the Acknowledging Party; and (3) no attorney or adviser to any other party has
27 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies
28

1 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
2 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
3 Settlement Agreement.

4 **12. DUTIES OF THE PARTIES**

5 **12.1. MUTUAL FULL COOPERATION**

6 The Parties agree to cooperate fully with one another to accomplish and implement the terms
7 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
8 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
9 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
10 by this Settlement Agreement and any other efforts that may become necessary by court order or
11 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
12 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendant and
13 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
14 this Settlement Agreement.

15 **12.2. DUTY TO SUPPORT AND DEFEND THE CLASS SETTLEMENT**

16 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
17 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
18 legal challenge, whether by appeal or collateral attack.

19 **12.3. DUTIES PRIOR TO COURT APPROVAL**

20 Class Counsel shall promptly submit this Settlement Agreement to the Court for preliminary
21 approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly
22 upon execution of this Settlement Agreement, Class Counsel shall apply to the Court for the entry of a
23 preliminary order scheduling a hearing on the question of whether the proposed Class Settlement
24 should be approved as fair, reasonable, and adequate as to the Class Members, approving as to form
25 and content the proposed Class Notice and Share Form attached hereto as **Exhibit 1** and **Exhibit 2**,
26 respectively, and directing the mailing of the Class Notice to Class Members. While Defendant can
27 reserve its right to object to facts or assertions made in the moving papers, Defense Counsel shall file
28 a notice of non-opposition to the granting of the motion for preliminary approval or join in the motion.

1 **13. MISCELLANEOUS PROVISIONS**

2 **13.1. DIFFERENT FACTS**

3 The Parties acknowledge that, except for matters expressly represented herein, the facts in
4 relation to the dispute and all claims released by the terms of this Settlement Agreement may turn out
5 to be different from the facts now known by each party and/or its counsel, or believed by such Party or
6 counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or
7 presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective
8 and binding despite such difference.

9 **13.2. NO PRIOR ASSIGNMENTS**

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

14 **13.3. NON-ADMISSION**

15 Nothing in this Settlement Agreement shall be construed as or deemed to be an admission by
16 any Party of any liability, culpability, negligence, or wrongdoing toward any other Party, or any other
17 person, and the Parties specifically disclaim any liability, culpability, negligence, or wrongdoing
18 toward each other or any other person. Each of the Parties has entered into this Settlement Agreement
19 with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses,
20 and contingencies. Nothing herein shall constitute any admission by Defendant of wrongdoing or
21 liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any
22 admission by Defendant regarding the merits of the Claims in this Action, including but not limited to
23 claims for unpaid wages or violations under California or federal law. Nothing herein shall constitute
24 an admission by Defendant that the Action was properly brought as a class or representative action
25 other than for settlement purposes. To the contrary, Defendant has denied and continues to deny each
26 and every material factual allegation and all Claims. To this end, the Class Settlement of the Action,
27 the negotiation and execution of this Settlement Agreement, and all acts performed or documents
28 executed pursuant to or in furtherance of this Settlement Agreement or the Class Settlement are not,

1 shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or
2 liability on the part of Defendant or of the truth of any of the factual allegations in the Complaint in the
3 Action; and are not, shall not be deemed to be, and may not be used as, an admission or evidence of
4 any fault or omission on the part of Defendant in any civil, criminal, or administrative proceeding in
5 any court, administrative agency, or other tribunal.

6 **13.4. NON-EVIDENTIARY USE**

7 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
8 or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
9 individual who requested to be excluded from the Settlement Class), Defendant, or its, her, his, or their
10 respective counsel, in the Action, except as is reasonably necessary to effectuate the Settlement
11 Agreement's purpose and terms. This Settlement Agreement may, however, be used by Defendant and
12 the Released Parties to prove or defend against any claim released herein by any Class Member in any
13 judicial, quasi-judicial, administrative, or governmental proceeding.

14 **13.5. MEDIA OR PRESS**

15 Plaintiff and Defendant, and their respective counsel, recognize, accept, and agree that the
16 Parties to this Settlement Agreement desire that the terms of this Settlement Agreement, the fact of the
17 Class Settlement embodied in this Settlement Agreement, the disposition of the Action, the Action, and
18 all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
19 obtained during the course of the Action, shall not be discussed with or presented to the media or press.

20 **13.6. OTHER PROVISIONS**

21 Defendant will refer any inquiries from Class Members regarding this Class Settlement to the
22 Settlement Administrator or Class Counsel and will not discourage Class Members who are employees,
23 directly or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of
24 the Parties, or their respective attorneys or agents, shall solicit or encourage any Class Members,
25 directly or indirectly, to Opt Out of the Class Settlement.

26 **13.7. CONSTRUCTION**

27 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
28 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement

1 Agreement is not to be construed in favor of or against any party by reason of the extent to which any
2 party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
3 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
4 next business day.

5 **13.8. GOVERNING LAW**

6 This Settlement Agreement is intended to and shall be governed by the laws of the State of
7 California, without regard to conflict of law principles, in all respects, including execution,
8 interpretation, performance, and enforcement.

9 **13.9. NOTICES**

10 Except for Class Member notices required to be made by the Settlement Administrator, all
11 notices or other communications required or permitted under this Settlement Agreement shall be in
12 writing and shall be sufficiently given if delivered in person to the party or their counsel by U.S.
13 certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the
14 party appearing in this Settlement Agreement.

15 **13.10. CAPTIONS AND INTERPRETATIONS**

16 Section titles or captions contained herein are inserted as a matter of convenience and for
17 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
18 or any provision thereof.

19 **13.11. MODIFICATION**

20 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
21 by the Parties or the Parties' counsel on their behalf. If preliminary or final approval of this Settlement
22 Agreement has been granted by the Court, then any such amendments or modifications to this
23 Settlement Agreement shall be approved by the Court. This Settlement Agreement may not be
24 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

25 **13.12. INTEGRATION CLAUSE**

26 This Settlement Agreement contains the entire agreement between the Parties relating to the
27 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
28 contemporaneous agreements, understandings, representations, and statements, whether oral or written,

1 and whether by a party or such party's legal counsel, are hereby superseded. No rights under this
2 Settlement Agreement may be waived except in writing as provided above.

3 **13.13. SUCCESSORS AND ASSIGNS**

4 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
5 Members (excluding only persons who timely Opt Out) and their respective present and former heirs,
6 trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees,
7 insurers, attorneys, accountants, auditors, advisors, consultants, pension plans, welfare benefit plans,
8 fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors,
9 successors, and assigns.

10 **13.14. CORPORATE SIGNATORIES**

11 Any person executing this Settlement Agreement or any such related document on behalf of a
12 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
13 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
14 this Settlement Agreement or any such related document.

15 **13.15. EXECUTION IN COUNTERPARTS**

16 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
17 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
18 have the same force and effect as if all Settling Parties had signed the same instrument.

19 **13.16. ATTORNEY FEES, COSTS, AND EXPENSES**

20 Except as otherwise specifically provided for herein, each party shall bear her or its own
21 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
22 and shall not seek reimbursement thereof from any other party to this Settlement Agreement.

23 **13.17. ACTION TO ENFORCE AGREEMENT**

24 In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be
25 entitled to recover her or its attorney fees and costs.

26 ///

27 ///

28 ///

13.18 DEFENDANT’S OPTION TO VOID SETTLEMENT AGREEMENT

If more than 5% of Class Members validly and timely opt out, then Defendant can in its sole and exclusive option cancel and void this settlement, the Memorandum of Understanding, and all settlement documents, and the settlement will have no force and not be effective.

14. EXECUTION

The Parties and their counsel have executed this Settlement Agreement on the date below their signatures or the signature of their representatives. The date of this Settlement Agreement shall be the date of the latest signature.

APPROVAL AND EXECUTION BY PARTIES

CLASS REPRESENTATIVE:

Dated: 7/10/2025

DocuSigned by:

D124FG78044D45D...

Genoveva Herrera Hernandez
Plaintiff and Class Representative

DEFENDANT:

Dated: _____

Las Montanas Market, Inc.

By: _____

Title: _____

APPROVED AS TO FORM BY COUNSEL

CLASS COUNSEL:

Dated: 7/10/2025

Melmed Law Group P.C.

Jonathan Melmed
Attorneys for Plaintiff

1 **13.18 DEFENDANT’S OPTION TO VOID SETTLEMENT AGREEMENT**

2 If more than 5% of Class Members validly and timely opt out, then Defendant can in its sole
3 and exclusive option cancel and void this settlement, the Memorandum of Understanding, and all
4 settlement documents, and the settlement will have no force and not be effective.

5 **14. EXECUTION**

6 The Parties and their counsel have executed this Settlement Agreement on the date below their
7 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
8 date of the latest signature.

9 **APPROVAL AND EXECUTION BY PARTIES**

10 **CLASS REPRESENTATIVE:**

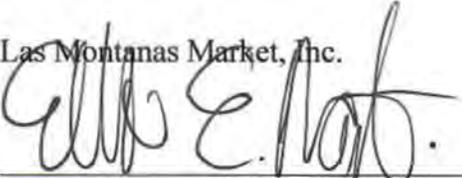
11 Dated: _____

12 _____
13 Genoveva Herrera Hernandez
14 Plaintiff and Class Representative

15 **DEFENDANT:**

16 Dated: 07/02/2025

17 Las Montanas Market, Inc.

18 

19 By: Elba Edith Najib

20 Title: COO

21 **APPROVED AS TO FORM BY COUNSEL**

22 **CLASS COUNSEL:**

23 Dated: _____

24 **Melmed Law Group P.C.**

25 _____
26 Jonathan Melmed
27 Attorneys for Plaintiff
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1 Dated: July 10, 2025

Bokhour Law Group, P.C.

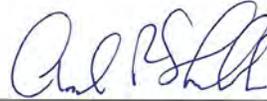


Mehrdad Bokhour
Attorneys for Plaintiff

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6 **DEFENDANT'S COUNSEL:**

7 Dated: July 11, 2025

Donahue Fitzgerald LLP



Andrew Shalauta
Melanie Kim
Attorneys for Defendant

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EXHIBIT 1

Notice of Proposed Class Action Settlement

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3 **[REVISED DRAFT] SUPERIOR COURT OF THE STATE OF CALIFORNIA**
4 **FOR THE COUNTY OF CONTRA COSTA**

5 GENOVEVA HERRERA HERNANDEZ, an
6 individual, on behalf of herself, the State of
7 California, as a private attorney general, and on
8 behalf of all others similarly situated,

9 Plaintiff,

10 v.

11 LAS MONTANAS MARKET, INC., a
12 California corporation; and DOES 1 TO 50,

13 Defendants.
14

Case No.: C23-00570

Notice of Proposed Class Action Settlement

15 *A court authorized this notice. This is not a solicitation from a lawyer.*
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1 **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

2 *You may be eligible to receive a settlement payment. Please read this notice carefully.*

3 A proposed class action settlement agreement (the “Settlement”) has been reached between:
4 **(1)** Plaintiff Genoveva Herrera Hernandez (“Plaintiff”), individually and in her representative capacity
5 on behalf of a group of prospective class members defined below, and as a private attorney general on
6 behalf of the State of California; and **(2)** Defendant Las Montanas Market, Inc. (“Defendant”). The
7 Settlement resolves disputed claims against Defendant arising out claims asserted by Plaintiff
8 concerning its compensation practices during the period from March 14, 2019, through March 15, 2025
9 (the “Class Period”) as applied to all individuals who are or were employed by Defendants as non-
10 exempt employees in California during the Class Period (“Class Members”).

11 The Court has granted preliminary approval of the Settlement and ordered this notice to be sent
12 to you because you may be entitled to money under the Settlement and because the Settlement affects
13 your legal rights.

14 **NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE**
15 **SETTLEMENT:** If you are a Class Member (as defined above) and received this notice, you are
16 automatically included in the Settlement and do not need to take any further action to receive a
17 payment. If you accept your settlement amount, you will release the claims described below.

18 **1. DESCRIPTION OF THE LAWSUIT**

19 Plaintiff, individually and in her representative capacity on behalf of the Class Members, and
20 as a private attorney general on behalf of the State of California, is pursuing a lawsuit against Defendant
21 in the Superior Court of the State of California for the County of Contra Costa in the matter of
22 ***Genoveva Herrera Hernandez v. Las Montanas Market, Inc.***, case number **C23-00570** (the “Action”).
23 The Action sought recovery for Defendant’s alleged: **(1)** failure to pay minimum wage for all hours
24 worked; **(2)** failure to pay proper overtime wages; **(3)** failure to provide compliant rest periods and pay
25 missed rest break premiums; **(4)** failure to provide compliant meal periods and pay missed meal period
26 premiums; **(5)** failure to maintain accurate employment records; **(6)** failure to pay timely wages during
27 employment; **(7)** failure to pay all wages due and owing at separation; **(8)** failure to reimburse business
28 expenses; **(9)** failure to provide complete and accurate wage statements; and **(10)** deceptive, fraudulent,

1 or otherwise unlawful business practices based on the foregoing in violation of California’s Unfair
2 Competition Law. The Action further alleges claims and penalties Pursuant to the Labor Code Private
3 Attorneys General Act (“PAGA”) for violations of California Labor Code Sections 201, 202, 203, 204,
4 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199,
5 2802, 2804, and other provisions of the Labor Code.

6 **Defendant denies all liability, denies all allegations in the Action, and has raised various**
7 **defenses to the claims.** Defendant asserts that it fully complied with all applicable wage and hour laws,
8 and contends that civil penalties under PAGA are not warranted. Defendant also denies that the Action
9 is suitable for class certification. Defendant has entered into the Settlement solely for purposes of
10 resolving this dispute to avoid costly, disruptive, and time-consuming litigation and does not admit to
11 any wrongdoing or liability.

12 The Court has not ruled on the merits in the Action. By approving the Settlement and issuing
13 this notice, the Court is *not* suggesting which side would win or lose the case if it went to trial or
14 whether the claims are suitable for class certification. To avoid the additional expense, inconvenience,
15 and risk of continued litigation, however, Plaintiff and Defendant (the “Parties”) have concluded that
16 it is in their respective best interests and the interests of the Class Members to settle the Action on the
17 terms in the Class Action and PAGA Settlement Agreement and Release, which are described in this
18 notice. The Settlement was reached after Defendant provided extensive information and documents to
19 Plaintiff’s counsel, and after lengthy arms-length non-collusive negotiations between the Parties,
20 including mediation with an experienced and well-respected mediator in California. In these
21 negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and
22 determined that the Settlement was a fair, reasonable, and adequate way to resolve the disputed claims.

23 Plaintiff and Plaintiff’s counsel—Jonathan Melmed and Laura Supanich of Melmed Law Group
24 P.C., and Mehrdad Bokhour of Bokhour Law Group, P.C. (“Class Counsel”)—support the Settlement.
25 Among the reasons for support are the defenses to liability potentially available to Defendant, the risk
26 of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties
27 associated with litigation. Plaintiff and Class Counsel believe that the settlement described in this notice
28 is fair, adequate, reasonable, and in the best interests of Plaintiff and the Class Members.

1 Under the Settlement, the following settlement class will be certified under California law: *all*
2 *individuals who are or were employed by Defendants as non-exempt employees in California during*
3 *the Class Period*. The “Class Period” is defined as the period from March 14, 2019, through March 15,
4 2025. The Settlement provides for a gross settlement amount of \$450,000.00, a share of which is to be
5 distributed to the Class Members based on the pro rata number of weeks worked by the Class Members
6 during the Class Period as a proportion of all weeks worked by all Class Members. In exchange for
7 their share of the settlement amount, all participating Class Members will be deemed to have released
8 Defendant from liability on the terms in the Class Action and PAGA Settlement Agreement and
9 Release, which are described in this notice..

10 On [date of preliminary approval], the Court preliminarily approved the Settlement and
11 conditionally certified the settlement class. This notice is being sent to you because Defendant’s records
12 indicate that you worked for Defendant during the Class Period and that you meet the definition
13 required to be treated as a Class Member.

14 **2. TERMS OF THE SETTLEMENT**

15 Defendant has agreed to pay \$450,000.00 (the “Gross Settlement Amount”) to resolve the
16 claims in the Action. The Parties agreed to the following payments from the Gross Settlement Amount:

- 17 1. **Settlement Administration Costs.** The Court has approved Apex Class Action
18 Administration to act as the “Settlement Administrator,” who is sending this notice to
19 you and will perform many other duties relating to the Settlement. Under the Settlement,
20 up to \$15,000.00 will be paid from the Gross Settlement Amount to pay the Settlement
21 Administration Costs.
- 22 2. **Attorneys’ Fees and Expenses.** Class Counsel have been prosecuting the Action on
23 behalf of the Class Members on a contingency fee basis (that is, without being paid any
24 money to date) and have been paying all litigation costs and expenses. To date, the
25 Parties have aggressively litigated many aspects of the case including investigation,
26 settlement efforts, and a full-day mediation session. The Court will determine the actual
27 amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross
28 Settlement Amount. Class Members are not personally responsible for any of Class

1 Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of one-third of
2 the Gross Settlement Amount (i.e., \$150,000.00) as reasonable compensation for the
3 work Class Counsel performed and will continue to perform in the Action. Class
4 Counsel also will ask for reimbursement of up to \$20,000.00 for the costs Class Counsel
5 incurred in connection with the Action.

6 3. **Service Payment to Class Representative.** Class Counsel will ask the Court to provide
7 a service payment to Plaintiff in the amount of \$10,000.00 for Genoveva Herrera
8 Hernandez to compensate her for her efforts on behalf of the Class Members in the
9 Action, including assisting in the investigation and consulting with Class Counsel and
10 providing crucial documents to Class Counsel. Plaintiff also may receive a share of the
11 Settlement as a Class Member.

12 4. **PAGA Payment.** The Parties have agreed on a reasonable sum to be paid in settlement
13 of the PAGA claims included in the Action, which is \$10,000.00. The PAGA Payment
14 is to be approved by the Court pursuant to Labor Code section 2699 and is to be
15 distributed as follows: seventy-five percent (75%) (i.e., \$7,500.00) to the LWDA and
16 twenty-five percent (25%) (i.e., \$2,500.00) to the individuals who come within the
17 definition of an “aggrieved employee” for the purposes of the Settlement (i.e., all
18 individuals who are or were employed by Defendants as non-exempt employees in
19 California during the PAGA Period). The “PAGA Period” is defined for these purposes
20 to mean the period from March 14, 2022, through March 15, 2025.

21 After deducting the amounts above, the balance of the settlement amount will form the “Net
22 Settlement Amount” for distribution to the Class Members.

23 **3. DISTRIBUTION OF THE SETTLEMENT TO THE CLASS MEMBERS**

24 Each eligible Class Member who does not request exclusion from the Settlement will be deemed
25 a “Class Participant” and will receive a share from the Net Settlement Amount which will be distributed
26 pro rata based on the proportional number of weeks worked by each Class Member during the Class
27 Period (the “Individual Settlement Amount”). If any Class Member requests exclusion from the
28 Settlement, his or her share will be distributed to the remaining Class Participants.

1 Twenty percent (20%) of each Individual Settlement Amount will constitute payment in the
2 form of wages (and each Class Participant will be issued an IRS Form W-2 for such payment to him
3 or her), and Eighty percent (80%) of each Individual Settlement Amount will constitute penalties and
4 interest (and each Class Participant will be issued an IRS Form 1099 for such payment to him or her).

5 Defendant, or its proxies, shall take all usual and customary deductions from the Individual
6 Settlement Amount payments that are distributed as wages, including, but not limited to, state and
7 federal tax withholding, disability premiums, and unemployment insurance premiums. There will be
8 no deduction taken from the interest or penalty distribution—it will, however, be reported on IRS Form
9 1099 as income. Class Participants are responsible for the proper income tax treatment of their
10 Individual Settlement Amount. The Settlement Administrator, Defendant and its counsel, and Class
11 Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors
12 concerning the tax consequences and treatment of payments they receive under the Settlement.

13 The workweeks you worked for Defendant during the Class Period will be calculated based on
14 Defendant's records. If you feel that you were not credited with the correct number of workweeks
15 worked during the Class Period, you may submit evidence to the Settlement Administrator on or before
16 [Response Deadline] with documentation to establish the number of workweeks you claim to have
17 actually worked during the Class Period. **Documentation sent to the Settlement Administrator will
18 not be returned or preserved, so do not send originals.** The Parties and the Settlement Administrator
19 will promptly evaluate the evidence submitted and discuss in good faith how many workweeks should
20 be credited. The Settlement Administrator will make the final decision as to how many weeks are
21 credited and report the outcome to the Class Participant. If you are unsatisfied with the decision, you
22 may submit an objection, which is explained below.

23 Settlement checks will be mailed to all Class Participants after the Court grants final approval
24 of the Settlement and judgment is entered.

25 **4. THE RELEASE OF CLAIMS**

26 If the Court approves the Settlement, the Court will enter judgment and the Settlement will bind
27 all Class Participants. The Class Participants will then be barred from bringing any "Released Claims"
28 against the "Released Parties" as those terms are defined below.

1 The “Released Parties” shall include Las Montanas Market, Inc., and all of its parents,
2 subsidiaries, affiliates, sister companies, shareholders, owners, members, employees, directors, agents,
3 managing agents, officers, predecessors, successors and assigns, and any person that could be sued
4 under Labor Code Section 558.1, et seq.

5 The “Released Claims” are all California wage and hour claims, penalties, interest, and causes
6 of action, arising from or related to the claims pled in Plaintiff’s operative complaint (“Complaint”) or
7 that could have been pled in the Complaint based on the allegations in the Complaint, and the PAGA
8 Notice to the LWDA, including without limitation claims for unpaid minimum wages, overtime wages,
9 off-the-clock work time, failure to provide compliant meal breaks, failure to provide compliant rest
10 breaks, inaccurate wage statements, and failure to pay all wages owed upon termination under the
11 California Labor Code, or applicable wage order(s), unfair competition claims under California
12 Business & Professions Code §17200, et seq. based on the labor code violations alleged, and any
13 penalties, restitution, disgorgement, interest or attorneys’ fees, and penalties Pursuant to the Labor
14 Code Private Attorneys General Act (“PAGA”) for Violations of California Labor Code Sections 201,
15 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198,
16 1198.5, 1199, 2802, 2804, and other provisions of the Labor Code during the Class Period and PAGA
17 Period. This release will cover all Class Members who do not opt out. PAGA Members shall receive
18 their portion of the PAGA Payment regardless of their decision to opt out of the class settlement and
19 therefore the PAGA Release would apply to them even if they opt out.

20 The Settlement does *not* release Defendant or any person, party, or entity from claims, if any,
21 by Class Members for workers compensation, unemployment, or disability benefits of any nature.

22 Class Members who do not request exclusion from the Settlement will be deemed to have
23 acknowledged and agreed that their claims for wages and penalties in the Action are disputed, and that
24 the Settlement payments constitute payment of all sums allegedly due to them. Class Members will be
25 deemed to have acknowledged and agreed that California Labor Code section 206.5 is not applicable
26 to the Settlement payments. That section provides in pertinent part as follows:
27
28

1 “An employer shall not require the execution of a release of a claim or right on account
2 of wages due, or to become due, or made as an advance on wages to be earned, unless
3 payment of those wages has been made.”

4 **5. YOUR OPTIONS**

5 **5.1. DO NOTHING AND RECEIVE YOUR PORTION OF THE SETTLEMENT**

6 If you do nothing, you will be automatically included as a Class Participant in the Settlement
7 and will receive a settlement payment. You do *not* have to take any further action to receive your
8 settlement payment. It is, however, the responsibility of all Class Members to ensure that the Settlement
9 Administrator has your current address on file, or you may not receive important information or a
10 settlement payment. The estimated amount of your settlement payment if you do nothing is included
11 on the attached *Class Action Settlement Share Form*.

12 **5.2. REQUEST EXCLUSION FROM THE CLASS AND THE SETTLEMENT**

13 If you do *not* wish to take part in the class action portion of the Settlement (the “Class
14 Settlement”), you may exclude yourself (i.e., opt out of the Class Settlement) by sending the Settlement
15 Administrator a letter or card postmarked no later than [Response Deadline] that specifically requests
16 exclusion from the Class Settlement in this case. This letter or card must be received by the Class
17 Administrator. The request for exclusion must include your name, address, telephone number, and
18 signature, and it should state:

19 “I wish to be excluded from the settlement class in the case of *Genoveva Herrera*
20 *Hernandez v. Las Montanas Market, Inc.* I understand that if I ask to be excluded from
21 the settlement class, I will not receive any money from the Class Action settlement
22 portion of this lawsuit and will not be releasing any claims I might have, except as
23 otherwise stated in the Notice of Proposed Class Action Settlement for PAGA related
24 penalties.”

25 Send the request for exclusion directly to the Settlement Administrator at the following address
26 **by no later than [Response Deadline]:**

27 [Insert Settlement Administrator Address]
28

1 Any person who submits a timely request for exclusion from the Class Settlement shall, upon
2 receipt, no longer be a Class Member, shall be barred from participating in the Class Settlement, and
3 shall receive no benefits from the class action portion of the Settlement. If you want confirmation of
4 receipt of your request for exclusion, please send it by United States certified mail, return receipt
5 requested, or contact the Settlement Administrator.

6 **Importantly**, Class Members who timely and validly request exclusion from the Class
7 Settlement will *not* be excluded from their share of the PAGA Payment. Requesting exclusion from
8 the Class Settlement applies solely to the Class Members' entitlement to the class action portion of the
9 Settlement and not their entitlement to the PAGA Payment. If you request exclusion from the Class
10 Settlement you will still be entitled to your share, if any, of the PAGA Payment and releasing those
11 claims as stated above under PAGA.

12 **5.3. OBJECT TO THE SETTLEMENT**

13 You have the right to object to the terms of the Settlement if you do not request exclusion. If,
14 however, the Court rejects your objection, you will still be bound by the terms of the Settlement. If you
15 wish to object to the Settlement, or any portion of it, you may file with the Settlement Administrator
16 and the Court a written objection stating your name, address, telephone number, dates of employment
17 with Defendant, the case name and number, each specific reason in support of your objection, and any
18 legal support for each objection. Objections in writing must be mailed to the Settlement
19 Administrator—[Insert Settlement Administrator Address]—by no later than [Response Deadline] to
20 be considered. **Objections that do not include all required information, or that are not timely
21 submitted, might not be considered by the court.**

22 If you choose to object to the Settlement, you may also appear to speak at the final approval
23 and fairness hearing scheduled for [Final Approval Hearing Date], at [Final Approval Hearing Time]
24 in Department [Court Department] of the Superior Court of the State of California for the County of
25 Contra Costa, located at [Court Location]. You have the right to appear either in person or through your
26 own attorney at this hearing.

27 If you object to the Settlement, you will remain a Class Member, and if the Court approves the
28 Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as

1 Class Members who do not object. Any Class Member who does not object in the manner provided
2 above shall have waived any objection to the Settlement, whether by appeal or otherwise.

3 The Court may, at the time of the final approval and fairness hearing, have certain social
4 distancing requirements or procedures for attendance at hearings. If you wish to object to the Settlement
5 by speaking at the final approval and fairness hearing, you may contact Class Counsel, whose
6 information is provided below, for more information about the Court's current social distancing
7 procedures. You may also review the Court's website for the most current information.

8 **6. HOW TO UPDATE OR CHANGE YOUR ADDRESS**

9 If you move after receiving this notice or if it was misaddressed, please contact the Settlement
10 Administrator, [Settlement Administrator], at [Settlement Administrator Phone] or by email at
11 [Settlement Administrator Email], as soon as possible. **This is important to ensure that future notices
12 and/or the Settlement payment reach you.**

13 **7. NOTICE OF FINAL JUDGMENT IF THE SETTLEMENT IS APPROVED**

14 Within seven (7) days after the Court has held a final and fairness approval hearing and entered
15 a final order approving the Settlement, if it chooses to do so, the Settlement Administrator will post a
16 copy of that order and final judgment on its website at the following website address:

17 [Case-Specific Settlement URL (to be added by Settlement Administrator)]

18 **8. IF THE SETTLEMENT IS NOT APPROVED**

19 If the Settlement is not approved by the Court, or if any of its conditions are not satisfied, the
20 Settlement may be voided, in which case no money will be paid, and the case will return to litigation.
21 If that happens, there is no assurance: **(1)** that the class will be certified by the Court; **(2)** that any
22 decision at trial would be in favor of Class Members; **(3)** that a trial decision, if any, would be as
23 favorable to the Class Members as the Settlement; or **(4)** that any favorable trial decision would be
24 upheld if an appeal was filed.

25 **9. QUESTIONS OR COMMENTS**

26 **PLEASE DO NOT CALL OR CONTACT THE COURT.** If you have any questions about
27 the settlement, you may contact the Settlement Administrator at: [Settlement Administrator Phone] or
28

1 by e-mail at [Settlement Administrator Email]. You may also contact Class Counsel at the addresses
2 or phone numbers listed below.

3
4 **Lawyers Representing Plaintiff and the Class Members**

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EXHIBIT 2

Class Action Settlement Share Form

CLASS ACTION SETTLEMENT SHARE FORM

Genoveva Herrera Hernandez v. Las Montanas Market, Inc.

Case Number C23-00570

Superior Court of the State of California for the County of Contra Costa

The proposed class action settlement agreement (the “Settlement”) described in the accompanying *Notice of Proposed Class Action Settlement* resolves disputed claims against Defendant Las Montanas Market, Inc. (“Defendant”) arising out of claims alleged by Plaintiff concerning its compensation practices during the period from March 14, 2019, through March 15, 2025 (the “Class Period”) as applied to all individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period (“Class Members”). Defendant denies the claims.

You are receiving this form because you are believed to be a Class Member. **According to Defendant’s records, you worked [REDACTED] workweeks for Defendant during the Class Period. Accordingly, your share of the Settlement is currently estimated to be \$ [REDACTED],** which is an estimate of your allocated portion the Net Settlement Amount, as that term is defined in the accompanying *Notice of Proposed Class Action Settlement*. Your estimated share of the Settlement may increase depending on factors such as, but not limited to, the number of Class Members who effectively exclude themselves from the Settlement.

You do not need to do anything to receive money under the Settlement.

If you believe the information provided above as to the number of your workweeks is incorrect and wish to dispute it, please contact the Settlement Administrator no later than **[Response Deadline]** at:

[Settlement Administrator Contact Information]

If you dispute the information stated above, the information Defendant provided to the Settlement Administrator will control unless you are able to provide documentation that establishes otherwise. Any disputes, along with supporting documentation, must be postmarked no later than **[Response Deadline]**.

Do not send originals; documentation sent to the claims administrator will not be returned or preserved.