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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF IMPERIAL**

ADRIAN GARCIA, an individual and on  
behalf of all others similarly situated,

Plaintiff,

v.

DUNE COMPANY OF IMPERIAL  
VALLEY, LLC, a California Limited  
Liability Company; THE DUNE COMPANY  
OF SALINAS, LLC, a California Limited  
Liability Company; GOWAN SEED  
COMPANY, LLC, a California Limited  
Liability Company; GOWAN SEEDTECH  
LLC, a Arizona Limited Liability Company;  
GOWAN COTTON COMPANY, LLC, a  
Arizona Limited Liability Company;  
EARTHWORK SEEDS, LLC, a Arizona  
Limited Liability Company; GOWAN USA,  
LLC, a Arizona Limited Liability Company;  
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: ECU003940

[Assigned for all purposes to Honorable  
Jeffrey B. Jones in Dept. 5]

**CLASS AND PAGA SETTLEMENT  
AGREEMENT**

Action Filed: January 31, 2025

Trial Date: None Set

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Adrian Garcia (“Plaintiff”) and defendant Dune Company of Imperial Valley, LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS

1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant, captioned *Adrian Garcia v. Dune Company of Imperial Valley, LLC*, Case No. ECU003940, initiated on January 31, 2025, and pending in Superior Court of the State of California, County of Imperial.

1.2. “Administrator” means Apex Class Action Administration (“Apex”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. “Aggrieved Employees” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency, or professional employer organization, as non-exempt, hourly-paid employees during the PAGA Period in the State of California.

1.5. “Class” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency, or professional employer organization, as non-exempt, hourly-paid employees during the Class Period in the State of California.

1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendant’s custody, possession, or control, including the Class Member’s (1) name; (2) last known address(es); (3) Social Security Number(s); and (4) the dates of employment (i.e., hire dates, and, if applicable,

re-hire date(s) and/or separation date(s)).

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from January 31, 2021 through October 13, 2025.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Imperial.

1.16. “Defendant” means named defendant Dune Company of Imperial Valley, LLC.

1.17. “Defense Counsel” means Jordan Lee and Sarah Oh of Polsinelli LLP.

1.18. “Effective Date” means the later of: (a) this Settlement Agreement has been executed by Plaintiff and Defendant; (b) Notice of the Settlement has been sent to the LWDA; (c) the Court has given approval to the Settlement; (d) the Court has entered its Final Order and Judgment; and (e) the later of the following events: (i) when the period for filing any appeal, writ, or other appellate proceeding opposing approval of the judgment approving the settlement has elapsed (i.e, 60 days from entry of judgment) without any appeal, writ, or other appellate proceeding having been filed; (ii) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue

1 further remedies or relief; or (iii) when any appeal, writ or other appellate proceeding has  
2 upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief.

3 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

4 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval  
5 of the Settlement.

6 1.21. "Final Judgment" means the Judgment entered by the Court based upon the Final  
7 Approval.

8 1.22. "Gross Settlement Amount" means \$300,000.00 (Three Hundred Thousand Dollars and  
9 Zero Cents) which is the total amount Defendant agrees to pay under the Settlement, except as  
10 provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage  
11 Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay  
12 Individual Class Payments (including each individual's payroll tax obligations), Individual  
13 PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses,  
14 Class Representative Service Payment, and Administrator's Expenses.

15 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the  
16 Net Settlement Amount calculated according to the number of Workweeks worked during the  
17 Class Period.

18 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of  
19 the PAGA Penalties calculated according to the number of pay periods worked during the PAGA  
20 Period.

21 1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

22 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency  
23 entitled, under Labor Code section 2699, subd. (i).

24 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA  
25 under Labor Code section 2699, subd. (i).

26 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following  
27 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA  
28 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion. Non-Participating Class Members who are Aggrieved Employees will remain part of the PAGA Settlement and subject to the PAGA release.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

1.31. “PAGA Period” means the period from October 28, 2023 through the end of the Class Period.

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

1.33. “PAGA Notice” means plaintiff’s October 28, 2024 letter to defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500.00) and the 75% to the LWDA (\$22,500.00) in settlement of PAGA claims.

1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. “Plaintiff” means Adrian Garcia the named plaintiff in the Action.

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

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement.

1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.

1.41. “Released Parties” means: Defendant, and each of their former, present and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

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

1.45. “Workweek” means any week during which a Class Member worked for Defendant, for at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

## 2. RECITALS

2.1. On October 28, 2024, Plaintiff filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code violations (“PAGA Notice”).

2.2. On January 31, 2025, Plaintiff commenced this Action by filing a complaint against Defendant for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) waiting time penalties; (6) wage statement violations; (7) failure to indemnify; and (8) unfair competition (the “Class Action”).

2.3. On June 30, 2025, Plaintiff filed a separate representative action in the Superior Court of California for the County of Imperial, Case No. ECU004170, seeking PAGA civil penalties against Defendant for Labor Code violations alleged in the PAGA Notice (the “PAGA Action”).

2.4. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

2.5. Prior to mediation Plaintiff obtained through informal discovery, time and payroll records for 100% of Class Members through mediation.

2.6. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.7. On October 13, 2025, the Parties participated in an all-day mediation presided over by Allison C. Eckstrom. The mediation was successful, and the Parties agreed to globally resolve all class and PAGA claims in the Action.

2.8. The Court has not granted class certification.

2.9. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### 3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, Defendant promises to pay \$300,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court

1 in the Final Approval:

2 3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than  
3 \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA  
4 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendant will  
5 not oppose Plaintiff's request for a Class Representative Service Payment that does not  
6 exceed this amount. As part of the motion for Class Counsel Fees Payment and Class  
7 Litigation Expenses Payment, Plaintiff will seek Court approval for any Class  
8 Representative Service Payments prior to the Final Approval Hearing. If the Court  
9 approves a Class Representative Service Payment less than the amount requested, the  
10 Administrator will retain the remainder in the Net Settlement Amount. The  
11 Administrator will pay the Class Representative Service Payment using IRS Form 1099.  
12 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class  
13 Representative Service Payment.

14 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the  
15 Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this  
16 Agreement, is currently estimated to be \$105,000.00 and a Class Counsel Litigation  
17 Expenses Payment of not more than \$30,000.00. Defendant will not oppose requests for  
18 these payments provided that do not exceed these amounts. Plaintiff and/or Class  
19 Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class  
20 Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves  
21 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less  
22 than the amounts requested, the Administrator will allocate the remainder to the Net  
23 Settlement Amount. Released Parties shall have no liability to Class Counsel or any  
24 other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee  
25 Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will  
26 pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one  
27 or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for  
28 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation

Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendant for such work unless, Defendant materially breach this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,730.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$5,730.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of any other claims including interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis. Non-Participating Class Members that are Aggrieved Employees will still be subject to the PAGA settlement (including the release) and will still receive the PAGA settlement.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000.00 to be paid from the Gross Settlement Amount, with 75% (\$22,500.00) allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$7,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

#### **4. SETTLEMENT FUNDING AND PAYMENTS**

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 46 Class Members who collectively worked a total of 4,895 Workweeks, and 26 of Aggrieved Employees who worked a total of 1,009 PAGA Pay Periods.

4.2. Class Data. Not later than 7 days after the full execution of the Settlement by the Parties, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel

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

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, and all applicable payroll tax payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments, and the Individual PAGA Payments.

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

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

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member.

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

## **5. RELEASE OF CLAIMS**

Effective upon entry of Judgment, the Order granting Final Approval of this Settlement, and on the date when Defendant fully funds the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses,

1 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release  
2 and discharge Released Parties from all claims, transactions, or occurrences, including, but not  
3 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts  
4 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could  
5 have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA  
6 Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to  
7 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability  
8 benefits, social security benefits, workers' compensation benefits that arose at any time, or based  
9 on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts  
10 or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to  
11 be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all  
12 respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

13 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For  
14 purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquish the  
15 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,  
16 which reads:

17 A general release does not extend to claims that the creditor or releasing party does not  
18 know or suspect to exist in his or her favor at the time of executing the release, and that  
19 if known by him or her would have materially affected his or her settlement with the  
20 debtor or Released Party.

21 5.2. Release by Participating Class Members: For the duration of the Class Period, all  
22 Participating Class Members, on behalf of themselves and their respective former and present  
23 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the  
24 Released Parties from all claims, rights, demands, damages, liabilities, and causes of action, in  
25 law or in equity, that were alleged, or reasonably could have been alleged, based on the facts  
26 stated in the complaint filed in the Class Action.

27 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not  
28 release any other claims, including claims for wrongful termination, violation of the Fair

1 Employment and Housing Act, unemployment insurance, disability, social security, workers'  
2 compensation, or claims based on facts occurring outside the Class Period.

3 5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved  
4 Employees are deemed to release, on behalf of themselves and their respective former and present  
5 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released  
6 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been  
7 alleged, based on the facts stated in the complaint filed in the PAGA Action and the PAGA  
8 Notice.

## 9 **6. MOTION FOR PRELIMINARY APPROVAL**

10 The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion  
11 for Preliminary Approval") that complies with the Court's current checklist for Preliminary  
12 Approvals.

13 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 7 days of full  
14 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed  
15 declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or  
16 potential conflicts of interest with the Administrator.

17 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and to deliver to Defense Counsel all  
18 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice and  
19 memorandum in support of the Motion for Preliminary Approval that includes an analysis of the  
20 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor  
21 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and  
22 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from  
23 the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting  
24 to its willingness to serve; competency; operative procedures for protecting the security of Class  
25 Data; amounts of insurance coverage for any data breach, defalcation of funds or other  
26 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;  
27 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense  
28 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve

1 and disclosing all facts relevant to any actual or potential conflicts of interest with Class  
2 Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to  
3 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA  
4 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative  
5 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,  
6 subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class  
7 Members and the Administrator.

8 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible  
9 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full  
10 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary  
11 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval  
12 to the extent it is consistent with the terms of this Class and PAGA Settlement Agreement. Class  
13 Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

14 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
15 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and  
16 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and  
17 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary  
18 Approval or conditions Preliminary Approval on any material change to this Agreement, Class  
19 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by  
20 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the  
21 Court's concerns. The parties agree that a reduction by the Court of the Class Counsel Fee  
22 Award, Class Counsel Expense Award, and Class Representative Award shall not constitute a  
23 material change to this Agreement as the parties negotiates these amounts on a "not to exceed"  
24 basis.

## 25 7. SETTLEMENT ADMINISTRATION

26 7.1. Selection of Administrator. The Parties have jointly selected Apex Class Action  
27 Administration ("Apex") to serve as the Administrator and verified that, as a condition of  
28 appointment, Apex agrees to be bound by this Agreement and to perform, as a fiduciary, all duties

specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.3. Employer Identification Number. The Administrator shall obtain a Employer Identification Number for the QSF for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.4. Notice to Class Members

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

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search,

1 and re-mail the Class Notice to the most current address obtained. The Administrator  
2 has no obligation to make further attempts to locate or send Class Notice to Class  
3 Members whose Class Notice is returned by the USPS a second time.

4 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks  
5 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days  
6 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose  
7 notice is re-mailed. The Administrator will inform the Class Member of the extended  
8 deadline with the re-mailed Class Notice.

9 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise  
10 discovers any persons who believe they should have been included in the Class Data  
11 and should have received Class Notice, the Parties will expeditiously meet and confer,  
12 and in good faith, in an effort to agree on whether to include them as Class Members.  
13 If the Parties agree, such persons will be Class Members entitled to the same rights as  
14 other Class Members, and the Administrator will send, via email or overnight delivery,  
15 a Class Notice requiring them to exercise options under this Agreement not later than  
16 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which  
17 ever are later.

18 7.5. Requests for Exclusion (Opt-Outs).

19 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement  
20 must send the Administrator, by mail, a signed written Request for Exclusion not later  
21 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days  
22 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter  
23 from a Class Member or his/her representative that reasonably communicates the Class  
24 Member's election to be excluded from the Settlement and includes the Class Member's  
25 name, address and email address or telephone number. To be valid, a Request for  
26 Exclusion must be timely postmarked by the Response Deadline.

27 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it  
28 fails to contain all the information specified in the Class Notice. The Administrator

1 shall accept any Request for Exclusion as valid if the Administrator can reasonably  
2 ascertain the identity of the person as a Class Member, the Class Member's desire to be  
3 excluded, and reasonably verify the authenticity of the request. The Administrator's  
4 determination shall be final and not appealable or otherwise susceptible to challenge. If  
5 the Administrator has reason to question the authenticity of a Request for Exclusion, the  
6 Administrator may demand additional proof of the Class Member's identity. The  
7 Administrator's determination of authenticity shall be final and not appealable or  
8 otherwise susceptible to challenge.

9 7.5.3. Every Class Member who does not submit a timely and valid Request for  
10 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled  
11 to all benefits and bound by all terms and conditions of the Settlement, including the  
12 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,  
13 regardless whether the Participating Class Member actually receives the Class Notice  
14 or objects to the Settlement.

15 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a  
16 Non-Participating Class Member and shall not receive an Individual Class Payment or  
17 have the right to object to the class action components of the Settlement. Because future  
18 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-  
19 Participating Class Members who are Aggrieved Employees are deemed to release the  
20 claims identified in Paragraph 5.4 of this Agreement and remain eligible for an  
21 Individual PAGA Payment.

22 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after  
23 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose  
24 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods  
25 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge  
26 the allocation by communicating with the Administrator via mail. The Administrator must  
27 encourage the challenging Class Member to submit supporting documentation. In the absence  
28 of any contrary documentation, the Administrator is entitled to presume that the Workweeks

1 contained in the Class Notice are correct so long as they are consistent with the Class Data. The  
2 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay  
3 Periods shall be final and not appealable or otherwise susceptible to challenge. The  
4 Administrator shall promptly provide copies of all challenges to calculation of Workweeks  
5 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination  
6 the challenges.

7 **7.7. Objections to Settlement**

8 7.7.1. Only Participating Class Members may object to the class action components of  
9 the Settlement and/or this Agreement, including contesting the fairness of the  
10 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class  
11 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

12 7.7.2. Participating Class Members may send written objections to the Administrator, by  
13 mail or email. In the alternative, Participating Class Members may appear in Court (or  
14 hire an attorney to appear in Court) to present verbal objections at the Final Approval  
15 Hearing. A Participating Class Member who elects to send a written objection to the  
16 Administrator must do so not later than 45 days after the Administrator's mailing of the  
17 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-  
18 mailed).

19 7.7.3. Non-Participating Class Members have no right to object to any of the class action  
20 components of the Settlement.

21 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be  
22 performed or observed by the Administrator contained in this Agreement or otherwise.

23 7.8.1. **Website, Email Address and Toll-Free Number.** The Administrator will maintain  
24 and use an internet website to post information of interest to Class Members including  
25 the date, time and location for the Final Approval Hearing and copies of the Settlement  
26 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class  
27 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,  
28 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,

the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4. Workweek and/or Pay Period Challenges. To the extent Class Members dispute their employment dates or the number of workweeks on record, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Defendant’s records will be presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline, and will be decided within ten (10) business days after the Response Deadline..

7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

## **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 46 Class Members and 4,895 Total Workweeks during the Class Period and (2) there are 26 Aggrieved Employees who worked 1,009 Pay Periods during the PAGA Period.

8.1. Increase in Workweeks. Defendant represents that there are no more than 4,895 Workweeks during the Class Period. In the event the number of Workweeks during the Class Period increases by more than 10%, or 489 Workweeks, *Defendant, in its sole discretion, can elect to either (1) end the Class Period on the date that the Workweeks reached 5,384 or (2) increase the Gross Settlement Amount proportionally by the Workweeks in excess of 5,384*

Workweeks multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the Gross Settlement Amount by 4,895. The Parties agree that the Workweek Value amounts to \$61.29 per Workweek (\$300,000.00 / 4,895 Workweeks). Thus, for example, should there be 5,800 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$25,496.64.  $([5,800 \text{ Workweeks} - 5,384 \text{ Workweeks}] \times \$61.29/\text{Workweek})$ .

## **9. MOTION FOR FINAL APPROVAL**

Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall endeavor to provide drafts of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administrator Expenses Payment and/or individual claims of plaintiff for alleged wrongful termination, shall not constitute a material modification to the Agreement within the meaning of this paragraph.

9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of

(i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged

## **10. AMENDED JUDGMENT**

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

## **11. ADDITIONAL PROVISIONS**

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other

1 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.  
2 Nothing in this Agreement is intended or should be construed as an admission by Defendant that  
3 any of the allegations in the Operative Complaint have merit or that Defendant has any liability  
4 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that  
5 Defendant's defenses in the Action have merit. The Parties agree that class certification and  
6 representative treatment is for purposes of this Settlement only. If, for any reason the Court does  
7 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to  
8 contest certification of any class for any reasons, and Defendant reserves all available defenses  
9 to the claims in the Action, and Plaintiff reserves the right to move for class certification on any  
10 grounds available and to contest Defendant's defenses. The Settlement, this Agreement and  
11 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in  
12 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement  
13 and this Agreement).

14 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and  
15 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement  
16 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit  
17 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly  
18 or indirectly, specifically or generally, to any person, corporation, association, government  
19 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom  
20 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the  
21 extent necessary to report income to appropriate taxing authorities; (4) in response to a court  
22 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal  
23 government agency. Each Party agrees to immediately notify each other Party of any judicial or  
24 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant  
25 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or  
26 other communication, before the filing of the Motion for Preliminary Approval, any with third  
27 party regarding this Agreement or the matters giving rise to this Agreement except to respond  
28 only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class

Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

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

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

11.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are

1 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied  
2 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR  
3 Part 10, as amended) or otherwise.

4 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
5 modified, changed, or waived only by an express written instrument signed or agreed to by all  
6 Parties or their representatives, and approved by the Court. Plaintiff and Defendant expressly  
7 agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any  
8 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any  
9 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on  
10 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of  
11 the use of signatures previously provided by the Parties.

12 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to  
13 the benefit of, the successors of each of the Parties.

14 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
15 governed by and interpreted according to the internal laws of the state of California, without  
16 regard to conflict of law principles.

17 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of  
18 this Agreement. This Agreement will not be construed against any Party on the basis that the  
19 Party was the drafter or participated in the drafting

20 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered  
21 during Action and in this Agreement relating to the confidentiality of information shall survive  
22 the execution of this Agreement

23 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code  
24 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant  
25 in connection with the mediation, other settlement negotiations, or in connection with the  
26 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not  
27 be used in any way that violates any existing contractual agreement, statute, or rule of court.

28 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is

1 inserted for convenience of reference only and does not constitute a part of this Agreement.

2 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall  
3 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a  
4 weekend or federal legal holiday, such date or deadline shall be on the first business day  
5 thereafter.

6 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts  
7 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall  
8 be accepted as an original. All executed counterparts and each of them will be deemed to be one  
9 and the same instrument if counsel for the Parties will exchange between themselves signed  
10 counterparts. Any executed counterpart will be admissible in evidence to prove the existence  
11 and contents of this Agreement.

12 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the  
13 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further  
14 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend  
15 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement  
16 process.

17 11.19. Severability. In the event that one or more of the provisions contained in this Agreement  
18 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,  
19 illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel  
20 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing  
21 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this  
22 Agreement.

23 ///

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27 **IT IS SO AGREED:**

28

*Adrian Garcia*

05/29/2026

Plaintiff, Adrian Garcia

06 / 11 / 2026

For Defendant, Dune Company of Imperial  
Valley, LLC

**AGREED AS TO FORM ONLY:**

*Vedang J. Patel*

5/29/2026

David D. Bibiyan  
Vedang J. Patel  
Counsel for Plaintiff

6/11/2026

Jordan Lee  
Sarah Oh  
Counsel for Defendant

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## Document History



SENT

**06 / 11 / 2026**

16:18:54 UTC

Sent for signature to Mark Jessen (mjessen@gowanco.com) by  
esign@contractsafe.com acting on behalf of  
kmcmanus@gowanco.com  
IP: 38.57.180.90



VIEWED

**06 / 11 / 2026**

17:43:36 UTC

Viewed by Mark Jessen (mjessen@gowanco.com)  
IP: 4.35.67.86



SIGNED

**06 / 11 / 2026**

17:44:22 UTC

Signed by Mark Jessen (mjessen@gowanco.com)  
IP: 4.35.67.86



COMPLETED

**06 / 11 / 2026**

17:44:22 UTC

The document has been completed.