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18 Attorneys for Defendants
19 SUNWEST MILLING, INC. and
20 SUNWEST FOODS, INC.

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA
22 FOR THE COUNTY OF BUTTE

23 ABIGAIL JOHNSON, individually and on
24 behalf of all others similarly situated,

25 Plaintiff,

26 vs.

27 SUNWEST MILLING, INC.; SUNWEST
28 FOODS, INC.; and DOES 1 to 10,

Defendants.

Case No.: 23CV02012

CLASS ACTION

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

1 IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff Abigail Johnson
2 (“Plaintiff”), individually on behalf or herself and the Class Members, the State of California,
3 and all other allegedly similarly aggrieved employees (“PAGA Members”), and Sunwest
4 Milling, Inc. and Sunwest Foods, Inc. (collectively “Defendants”), by and through their
5 respective attorneys, that subject to final Court approval, the Action will be finally, fully, and
6 forever compromised, released, resolved, discharged, and settled, and will be dismissed with
7 prejudice as to Defendants, subject to the terms and conditions set forth in this Class Action and
8 Private Attorneys General Act (“PAGA”) Settlement and Release Agreement (hereinafter,
9 “Agreement”).

10 **I. RECITALS**

11 1.1 WHEREAS, on October 10, 2023, Plaintiff filed her First Amended Class Action
12 Complaint against Defendants in Butte County Superior Court in the matter entitled *Abigail*
13 *Johnson v. SunWest Milling, Inc. and SunWest Foods, Inc.*, Case No. 23CV02012 (“Action”)
14 alleging the following causes of action: (1) unpaid overtime; (2) meal period violations and
15 unpaid meal period premiums; (3) rest period violations and unpaid rest period premiums; (4)
16 failure to pay minimum wages; (5) failure to furnish timely and accurate wage statements; (6)
17 wages not paid upon termination; (7) unfair competition; and (8) civil penalties under the
18 Private Attorneys General Act (“PAGA”); and

19 1.2 WHEREAS, Defendants deny Plaintiff’s claims to the fullest possible extent and
20 denies any wrongful or unlawful conduct, claim, damage, or liability of any kind, or in any other
21 manner, or at all;

22 1.3 WHEREAS, pursuant to Labor Code section 2699.3 subd. (a), Plaintiff gave
23 timely written notice to Defendants and the LWDA by sending a PAGA notice letter on July 21,
24 2023. Plaintiff’s PAGA case number is LWDA-CM-970088-23.

25 1.4 WHEREAS, on April 16, 2024, the Parties participated in all-day mediation
26 presiding over by Jason Marsili of Marsili Mediation where the parties reached this Agreement
27 to settle the Action. The Parties agree that the terms and conditions of this Agreement are the
28 result of lengthy, intensive arms-length negotiations between the Parties supervised by an

1 experienced employment law mediator. The Parties agree that the Agreement is entered into in
2 good faith as to each Class Member and PAGA Member and that the Settlement is fair,
3 reasonable, and adequate as to each Class Member and PAGA Member.

4 1.5 WHEREAS, Class Counsel has conducted extensive investigation into the facts
5 of the Action, including informal written discovery, document production, pre-mediation
6 informal disclosures, and other investigation undertaken by Class Counsel. The Parties also
7 engaged in extensive negotiations and the exchange of data, documents, and information. Based
8 on a thorough investigation and evaluation of this matter, Class Counsel and Plaintiff have
9 concluded that this proposed Settlement with Defendants for the consideration and on the terms
10 set forth in this Agreement, is fair, reasonable, and adequate and is in the best interest of the
11 Class in light of all known facts and circumstances, including the risk of significant delay,
12 defenses and contentions against liability asserted by Defendants, and numerous potential
13 appellate issues.

14 1.6 WHEREAS, Defendants deny each and all of the claims alleged by Plaintiff in
15 the Action. Defendants expressly deny any and all charges of wrongdoing or liability arising out
16 of any of the acts, omissions, facts, matters, transactions, or occurrences alleged, or that could
17 have been alleged, in the Action. Nevertheless, Defendants have considered the uncertainty and
18 risks inherent in any litigation and have likewise concluded that further litigation would be
19 protracted and expensive. Defendants have determined that it is desirable and beneficial that the
20 Action be settled in the manner and upon the terms and conditions set forth in this Agreement.
21 Neither this Agreement, nor any document referred to or contemplated herein, nor any action
22 taken to carry out this Agreement, is, may be construed as, or may be used as an admission,
23 concession, or indication by or against Defendants of any fault, wrongdoing, or liability
24 whatsoever.

25 1.7 WHEREAS, in order to avoid the substantial expense and inconvenience of
26 further litigation, the Parties now desire to settle all claims fully and finally on the terms set
27 forth herein. This includes all claims asserted in the Action, all issues that were raised or could
28 have been raised in the Action, and any claims or potential claims arising from any transactions

1 or occurrences to date. Plaintiff and Defendants wish to settle both individually and on behalf of
2 the Settlement Class. Accordingly, Plaintiff and Defendants agree as follows.

3 1.8 WHEREAS, the Parties agree that certification for purposes of settlement is not
4 an admission that class certification is proper under Section 382 of the Code of Civil Procedure.
5 If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part,
6 this conditional agreement to class certification will be inadmissible and will have no effect in
7 this matter or in any claims brought on the same or similar allegations, and the Parties shall
8 revert to the respective positions they held prior to entering into the Settlement Agreement.

9 **II. DEFINITIONS**

10 As used in this Agreement, the following terms shall have the meanings specified below
11 and/or as defined above:

12 2.1 “Agreement,” “Settlement,” or “Settlement Agreement” means this Joint
13 Stipulation of Class Action and PAGA Settlement and Release and all actions taken pursuant to
14 and in furtherance of this Agreement.

15 2.2 “Administrator” means Atticus Administration LLC (“Atticus”) or such other
16 administrator as may be approved by the Court, which shall be responsible for administering the
17 Settlement pursuant to the terms of the Agreement, the Preliminary Approval Order, and the
18 Final Approval Order and Judgment. The Administration Costs shall be paid out of the Gross
19 Settlement Fund, as approved by the Court.

20 2.3 “Administration Costs” means the amount approved by the Court to be paid to
21 the Administrator to perform the Administration Duties as described herein and in Section 4.3
22 below. It is estimated that the Administration Costs will not exceed \$16,000.00.

23 2.4 “Attorneys’ Fees and Costs Payment” or “Attorneys’ Fees and Costs Award”
24 shall mean the amount of attorneys’ fees, expenses, and costs to prosecute the Action to be paid
25 to Class Counsel out of the Gross Settlement Fund, as approved by the Court.

26 2.5 “Action” shall mean above-captioned action: *Abigail Johnson v. SunWest*
27 *Milling, Inc. and SunWest Foods, Inc.*, Case No. 23CV02012, including the claims alleged in
28 the First Amended Class Action Complaint for Damages.

1 2.6 “Class Counsel” shall mean the attorneys representing Plaintiff and the Class in
2 the Action: Sang (James) Park of PARK APC.

3 2.7 “Class List and Data” shall mean the Class Member identifying information
4 Defendants shall provide following Preliminary Approval for purpose of providing notice of the
5 Settlement to the Class.

6 2.8 “Class” or “Class Members” shall mean all current and former non-exempt
7 employees, including temporary employees contracted through any and all agencies, who have
8 worked for Defendants in California during the time period of July 21, 2019 through the date of
9 Preliminary Approval of this Agreement (the “Class Period”).

10 2.9 “Class Period” shall mean the period of July 21, 2019 through the date of
11 Preliminary Approval of this Agreement.

12 2.10 “Class Representative” means Abigail Johnson, the named Plaintiff in the
13 operative complaint in this Action seeking Court approval to serve as a class representative.

14 2.11 “Complaint” shall mean the First Amended Class Action Complaint filed in the
15 Action.

16 2.12 “Court” means the Superior Court of California, County of Butte.

17 2.13 “Defense Counsel” shall mean the attorneys representing Defendants: Hallie R.
18 Spaulding and Dayra Juarez of Palmer Kazanjian Wohl Hodson LLP.

19 2.14 “Effective Date” means the date by which this Settlement is finally approved as
20 provided herein and the Court’s Final Approval Order and Judgment becomes binding. For
21 purposes of this Agreement, the Final Approval Order and Judgment becomes binding: (1) if
22 there are no objections to the Settlement, then the date of final approval of the Settlement by the
23 Court; (2) if there are objections to the Settlement, then the later of (a) the day after the deadline
24 by which a notice of appeal to the California Court of Appeal of the Final Approval Order
25 Judgment and/or of an order rejecting any motion to intervene may be timely filed, and none is
26 filed; (b) if such an appeal is filed, and the appeal is finally disposed of by ruling, dismissal,
27 denial or otherwise, the day after the deadline for filing a request for further review of the Court
28 of Appeal’s decision passes and no further review is requested; (c) if an appeal is filed and there

1 is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal and
2 further review of the Court of Appeal's decision is requested, the day after the request for
3 review is denied with prejudice and/or no further review of the decision can be requested, or (d)
4 if review is accepted, the day after the California Supreme Court affirms the Settlement. The
5 Effective Date cannot occur until and unless final approval of the Settlement occurs with no
6 objections to the Settlement or, if there are any objections, then after there is no possibility of an
7 appeal or further appeal that could potentially prevent this Agreement from becoming final and
8 binding. The occurrence of the Effective Date is a prerequisite to any distributions from the
9 Settlement Fund.

10 2.15 "Final Fairness" or "Final Approval Hearing" means the hearing to be conducted
11 by the Court, or any other Court taking jurisdiction of this matter, to determine whether to
12 finally approve the Settlement.

13 2.16 "Gross Settlement Fund" or "GSF" means the non-reversionary sum of One
14 Million Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.00) in full and complete
15 settlement of the Action, which is the total and maximum amount Defendants will be required to
16 pay under this Agreement, in addition to the employer's share of payroll taxes. The GSF will
17 include the payments to: (i) individual payments to all Participating Class Members, as
18 described herein; (ii) the PAGA Payment; (iii) Service Payment to the Plaintiff/Class
19 Representative, as described herein; (iv) Attorneys' Fees and Costs Award to Class Counsel, as
20 described herein; (v) Administration Costs to the Administrator, as described herein. Except as
21 provided in Section 4.18 of this Agreement, in no other event shall Defendants have any duty or
22 obligation to pay more than the Gross Settlement Fund. The GSF does not include the
23 Employer's share of payroll taxes, which shall be paid by Defendants separately, and in addition
24 to, the Gross Settlement Amount.

25 2.17 "Individual Settlement Payment" shall mean the payment for the proportionate
26 share of the NSF to be issued to a Participating Class Member based upon the formula set forth
27 below in Section 4.15 of this Agreement, after reduction for the employer's share of
28 withholdings and taxes with respect to the wages portion of Individual Settlement Shares.

1 2.18 “LWDA Payment” means the payment to the Labor and Workforce Development
2 Agency (“LWDA”) for its 75% portion of the PAGA Payment.

3 2.19 “Net Settlement Fund” or “NSF” means the Gross Settlement Fund less Court-
4 approved (i) LWDA Payment; (ii) Service Payment to the Plaintiff/Class Representative; (iii)
5 Attorneys’ Fees and Costs Award to Class Counsel; and (iv) Administration Costs to the
6 Administrator. To the extent the Court does not approve the full amount of the LWDA Payment
7 or the requested Attorneys’ Fees and Costs, Administration Costs, or the Service Payment, the
8 Net Settlement Fund will increase accordingly.

9 2.20 “Notice Packet” refers to the documents mailed to the Class Members pursuant
10 to the terms of this Agreement, and includes the Court-approved Notice of Class Action
11 Settlement attached hereto as “Exhibit A.”

12 2.21 “Notice Response Deadline” means sixty(60) calendar days from the date of the
13 initial mailing of the Notice Packet, or such other date as set by the Court in the Preliminary
14 Approval Order.

15 2.22 “PAGA Payment” means the amount to be paid to settle the claims for penalties
16 under the California Labor Code Private Attorneys General Act (“PAGA”), California Labor
17 Code §§ 2698 *et seq.*.

18 2.23 “Participating Class Member” means any Class Member who has not, by the
19 Notice Response Deadline, postmarked a Request for Exclusion. Each Participating Class
20 Member will be issued an Individual Settlement Payment without the need to return a claim
21 form.

22 2.24 “Plaintiff” and “Class Representative” shall mean Abigail Johnson.

23 2.25 “Preliminary Approval” and “Preliminary Approval Order” means the order
24 preliminarily approving this Settlement, which shall, among other things, preliminarily find the
25 Settlement to be fair, reasonable, and adequate; approve Atticus Administration LLC as the
26 Administrator; approve the content and distribution of the Notice Packet to the Class Members;
27 and set the date for the Final Approval Hearing, among other things, as contemplated in Section
28 4.1 of this Agreement.

1 2.26 “Qualifying Workweek” shall mean the actual weeks worked during the Class
2 Period in which a Class Member worked for Defendants at least one day.

3 2.27 “Released Claims” means all claims for wages, premiums, reimbursement of
4 expenses, meal-period violations, rest-break violations, alleged failure to calculate the regular
5 rate of pay for overtime purposes, inaccurate/incomplete wage statements, various penalties, ,
6 and interest actually alleged or that could have been alleged in the Action by the Plaintiff, on
7 behalf of herself, the Class Members, similarly situated employees, and the aggrieved
8 employees, based on the facts alleged in the Complaint, allegedly occurring during the Class
9 Period, including but not limited to: (1) failure to provide meal periods, compensation in lieu
10 thereof, and/or failure to pay premium pay for missed, late, and/or short meal periods in
11 violation of California Labor Code §§ 226.7 and 512, the applicable Industrial Welfare
12 Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*; (2)
13 failure to provide rest breaks, compensation in lieu thereof, and/or failure to pay premium pay
14 for missed, late, and/or short rest breaks in violation of California Labor Code § 226.7, the
15 applicable Industrial Welfare Commission Wage Order, or California Business & Professions
16 Code § 17200 *et seq.*; (3) failure to pay wages for all hours worked, failure to pay overtime
17 wages, and failure to calculate and pay the regular rate of pay/overtime rate in the violation of
18 California Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, & 1198, the applicable Industrial
19 Welfare Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*;
20 (4) failure to provide accurate, complete, and itemized wage statements in violation of
21 California Labor Code § 226, or California Business & Professions Code § 17200 *et seq.*; (5)
22 failure to pay penalties under California Labor Code §§ 201, 202, 203, and 204, and California
23 Business & Professions Code § 17200 *et seq.*; (6) failure to keep accurate payroll/wage records
24 pursuant to Labor Code § 1174(d); (7) civil penalties under PAGA, California Labor Code §
25 2698 *et seq.*, for the alleged California Labor Code violations that were or that could reasonably
26 have been alleged in the Action based on the facts stated in the Complaint; (8) that Defendants
27 are liable for the attorneys’ fees and costs incurred to prosecute this Action on behalf of Class
28 Members, including fees and costs incurred for the services of Class Counsel; and (9) that

1 Defendants are liable for any other remedies, penalties or interest under California law,
2 including the applicable Industrial Welfare Commission (“IWC”) Wage Order(s), based on the
3 facts alleged in the Complaint. “Released Claims” also includes all claims that Plaintiff and/or
4 the Class Members may have against the Released Parties relating to (i) the payment, taxation
5 and allocation of attorneys’ fees and costs to Class Counsel pursuant to this Agreement, (ii) the
6 payment, taxation and allocation of Plaintiff’s Service Award pursuant to this Agreement, and
7 (iii) the payment, taxation, and allocation of penalties under the PAGA.

8 2.28 “Released Parties” shall mean Defendants SunWest Milling, Inc., SunWest
9 Foods, Inc. and all their past and present successors, predecessors, subsidiaries, parents, holding
10 companies, sister and affiliated companies, divisions and other related entities, shareholders,
11 subsidiaries, investors, officers, directors, partners, assigns, agents, employees, principals, heirs,
12 administrators, attorneys, vendors, accountants, auditors, consultants, fiduciaries, insurers,
13 reinsurers, employee benefit plans, and representatives of each of them, both individually and in
14 their official capacities, past or present, as well as all persons acting by, though, under or in
15 concert with any of these persons or entities.

16 2.29 “Request(s) for Exclusion” means a written request made by a Class Member to
17 the Administrator seeking to be excluded from the Settlement, in the manner set forth in
18 Sections 4.8-4.12.

19 2.30 “Service Payment” means a payment, as approved by the Court, to
20 Plaintiff/Class Representative in the sum of \$10,000.00, in consideration of her efforts to initiate
21 and prosecute the Action, work performed, execution of a general release of all claims she may
22 have against Defendants as more particularly described in Sections 5.4 and 5.5. Defendants will
23 not oppose the Service Payment request in this amount. Plaintiff will be issued an Internal
24 Revenue Service Form 1099 by the Administrator for any Service Payment. The Plaintiff/Class
25 Representative agrees she is solely responsible for the tax consequences of the Service Payment,
26 if any. In the event that the Court (or any appellate court) awards less than the amount requested
27 for the Service Payment, only the awarded amount shall be paid and shall constitute satisfaction
28 of those obligations and full payment thereunder, and any unawarded portion of the requested

1 Service Payment shall be made a part of the GSF for distribution to Participating Class
2 Members. Service Payment to Plaintiff is in addition to the Individual Settlement Payment she
3 will receive as a Participating Class Member under the terms of this Settlement.

4 2.31 "Withholdings and Taxes" means all withholdings from the Individual
5 Settlement Payments required by law plus all federal, state, and local employer payroll taxes
6 due in regard to the Individual Settlement Shares (including but not limited to, FICA, FUTA and
7 SDI contributions), as computed by the Administrator in accordance with Section 4.16.

8 **III. SETTLEMENT TERMS**

9 3.1 **Payment of GSF by Defendants.** In full settlement of the Released Claims and
10 following the Effective Date, Defendants shall deliver the Gross Settlement Fund (GSF) to the
11 Administrator in accordance with the timeline set forth in Section 4.26, below. The GSF shall
12 consist of: (a) the Individual Settlement Payment, (b) the Attorneys' Fees and Costs Award, (c)
13 the PAGA Payment, (d) Service Payment to the Class Representative, (e) the Administration
14 Costs. The GSF does not include the Employer's share of payroll taxes, which shall be paid by
15 Defendants separately, and in addition to, the Gross Settlement Amount as described above.

16 Defendants shall deposit the GSF Amount with the Settlement Administrator no later
17 than thirty (30) calendar days from the Effective Date.

18 3.2 **Attorneys' Fees and Costs Payment/Award.** Class Counsel may request an
19 award of attorneys' fees in the amount of one-third of the Gross Settlement Fund and
20 reimbursement of litigation costs and expenses in the amount of up to \$15,000 ("Attorneys'
21 Fees and Costs") from the Court to compensate Class Counsel for fees and costs incurred for
22 work already performed in the Action, and the work remaining to be performed in documenting
23 the Settlement, securing Court approval of the Agreement, administering the Settlement,
24 responding to any potential objections and/or disputes, and defending against any appeals, as
25 well as all associated expenses. The amount of fees and costs awarded to Class Counsel shall be
26 left to the discretion of the Court. Defendants will not oppose a reasonable request for necessary
27 attorneys' fees and costs.

28

1 3.3 Class Counsel will apply for Attorneys' Fees and Costs to the Court for approval
2 prior to the date of the Final Approval Hearing. The Parties agree that, over and above the total
3 amount of the Court-approved Attorneys' Fees and Costs awarded, each Party, including all
4 persons eligible to be Class Members, shall bear their own attorneys' fees and costs relative to
5 the investigation, filing, prosecution or settlement of the Action, the negotiation, execution, or
6 implementation of this Agreement, and/or the process of obtaining, administering or challenging
7 a Preliminary Approval Order and/or Final Approval Order.

8 3.4 In the event that the Court denies, modifies, or reduces Class Counsel's request
9 for Attorneys' Fees and Costs, then Plaintiff, Class Counsel, and the Participating Class
10 Members may not seek to modify, revoke, cancel, terminate, or void this Agreement and will
11 not seek, request, or demand an increase in the Settlement Amount.

12 3.5 If Class Counsel appeal the Court's ruling on their request for Attorneys' Fees
13 and Costs, any ruling of any appellate court in such an appeal (regardless of its substance) shall
14 not constitute a material alteration of this Agreement, and shall not give Plaintiff, Class Counsel,
15 or the Participating Class Members the right to modify, revoke, cancel, terminate, or void this
16 Agreement.

17 3.6 All claims for attorneys' fees and/or costs that Class Counsel, Plaintiff, and the
18 Participating Class Members may possess against Defendant have been compromised and
19 resolved in this Agreement and shall not be affected by any appeal that Class Counsel may file.

20 3.7 The Attorneys' Fees and Costs payment shall represent payment for all claims
21 for Class Counsel's attorneys' fees and costs, past and future, incurred in the Action. The
22 Attorneys' Fees and Costs Payment shall be paid from the GSF, and Defendant shall not
23 otherwise be required to pay for any portion of Plaintiff's or the Class Members' attorneys' fees
24 or costs. The Attorneys' Fees and Costs Payment shall be paid to Class Counsel from the GSF
25 following the Effective Date, in accordance with Section 4.26, below.

26 3.8 **Service Payment to Plaintiff/Class Representative.** Defendants agree not to
27 oppose a Service Payment to Plaintiff in an amount not to exceed \$10,000.00 for her service in
28

1 bringing and prosecuting the Action. The Service Payment shall be paid to Plaintiff from the
2 GSF following the Effective Date, in accordance with Section 4.26, below.

3 **3.9 PAGA Payment.** The Parties agree to seek approval from the Court for a
4 payment of \$50,000.00 for resolution of the PAGA claims alleged in the Action. The Parties
5 agree that \$37,500.00 (75%) of the PAGA Payment shall be paid to the LWDA (“LWDA
6 Payment”) and \$12,500.00 (25%) of the PAGA Payment shall remain part of the Net Settlement
7 Fund to be paid to the Participating Class Members. The PAGA Payment shall be paid to the
8 LWDA from the GSF following the Effective Date, in accordance with Section 4.26, below.

9 **IV. CLASS SETTLEMENT PROCEDURES**

10 **4.1. Class Notice.** Subject to court approval, the Parties agree that the Administrator
11 shall provide notice to the Class pursuant to the following procedures:

12 **4.2 Class List and Data.** Within twenty-one (21) calendar days following entry of
13 the Preliminary Approval Order, Defendants will produce the Class List and Data to the
14 Administrator, which shall include for each Class Member: (1) full name; (2) most recently
15 known mailing address; (3) last known telephone number(s); (4) Social Security Number; and
16 (5) dates of employment from which the Administrator can calculate the total number of
17 Qualifying Workweeks.

18 **4.3 Administrator Duties.** The Administrator’s duties shall include, among others:
19 (i) creating a Settlement Fund, (ii) printing and mailing the Notice Packet to the Class as
20 directed by the Court, and establishing a website domain to host the relevant settlement
21 documents; (iii) taking all steps reasonably necessary to ensure Class Members timely receive
22 the Notice Packet; (iv) calculating the number of Qualifying Workweeks worked by Class
23 Members, including resolving any disputes by Class Members about the number of Qualifying
24 Workweeks they worked during the Class Period; (v) taking receipt of and safeguarding the
25 Gross Settlement Fund; (vi) calculating and distributing Individual Settlement Payments, the
26 PAGA Payment, the Service Payment, and the Attorneys’ Fees and Costs Payment, provided
27 such amounts are approved by the Court; (vii) calculating and paying Withholdings and Taxes;
28 (viii) issuing IRS Forms W2 and 1099, as applicable, and reporting all Individual Settlement

1 Payments, PAGA Payments, Service Payment, and the Attorneys' Fee and Costs Payment; and
2 (ix) forwarding sums represented by uncashed checks to the Unclaimed Property Division of the
3 California State Controller's office with an identification of each Participating Class Member
4 and the amount attributable to each Participating Class Member, together with such other tasks
5 as the Parties may mutually request and agree upon, or the Court may order, the Administrator
6 to perform.

7 4.4 The Administrator shall create and maintain a website, which will include the
8 Class Notice, Motions for Preliminary and Final Approval, and Motion for Attorneys' Fees as
9 they become available, until the Effective Date. The website shall be removed and inaccessible
10 immediately after the Effective Date.

11 4.5 The Administrator shall take all reasonable steps to ensure that (a) the highest
12 percentage of Class Members receive the Notice Packet; (b) Class Members who wish to
13 participate in the Settlement are permitted to do so consistent with this Agreement; and (c) it has
14 the most current and accurate addresses for Class Members, including, but not limited to
15 performing an initial National Change of Address database search for all Class Members who
16 are no longer employed by Defendants. In addition, the Administrator shall perform a standard
17 search, also known as "batch," "skip trace," or "credit header" searches, on all Class Members
18 whose Notice Packet is returned as undeliverable within thirty (30) calendar days of initial
19 mailing. The Administrator shall immediately re-mail all such returned or undelivered Notice
20 Packets to all updated addresses obtained through its efforts to locate the most current and
21 accurate addresses for Class Members. Should a Notice Packet associated with a currently
22 employed Class Member be returned as undeliverable within thirty (30) calendar days of initial
23 mailing, Defendants will review their records and, if an updated address is reflected in its
24 records, provide the Administrator with an updated mailing address for remailing of the Notice
25 Packet. The Administrator shall also provide a website for information about the case, and a
26 toll-free telephone support and a post office box to facilitate Class Member communications;
27 maintain appropriate databases to fulfill its duties; receive, control, and account for all returned
28 Notice Packets, disputes, Requests for Exclusion and Objections; calculate the Class Members'

1 payments; and prepare and deliver reports to Class Counsel and Counsel for Defendants on a
2 weekly basis that communicate the status of the notice process, including the number of Notice
3 Packets mailed, returned, searched, and re-mailed as well as disputes, Requests for Exclusion,
4 and Objections. In addition to the duties identified above, the Administrator shall prepare final
5 declarations, reports, and invoices that accurately describe the notice process, the level of
6 participation, and actions taken to ensure the best possible notice of the Settlement was provided
7 to Class Members.

8 **4.6 Mailing of Notice Packet to Class Members.** No later than fourteen (14)
9 calendar days following receipt of the information to be provided under Paragraph 4.2, above,
10 the Administrator shall mail the Notice Packet to all Class Members, via first class United States
11 mail, using the most current mailing address. Any Notice Packet returned to the Administrator
12 within thirty (30) calendar days of initial mailing with a forwarding address shall be
13 immediately re-mailed by the Administrator. The Administrator shall conduct a skip-trace
14 address search for any Class Member's Notice Packet that is returned without a forwarding
15 address and shall, upon obtaining a new or different address, immediately re-mail the Class
16 Member's Notice Packet. It shall be presumed that each and every Class Member whose Notice
17 Packet is not returned to the Administrator as undeliverable within thirty (30) calendar days
18 after mailing has actually received the Notice Packet.

19 **4.7 Requests for Exclusion/Opt-Outs.** Class Members who wish to be excluded
20 from, or opt-out of, the Settlement must submit to the Administrator a written, signed request to
21 be excluded from the Settlement ("Request for Exclusion") postmarked by the Notice Response
22 Deadline.

23 **4.8 Contents of Request.** The Request for Exclusion must contain (i) the name of
24 this Action; (ii) the full name, address, telephone number, and last four digits of the Social
25 Security Number of the person requesting to be excluded; (iii) the words "Request for
26 Exclusion" at the top of the document; (iv) be personally signed by the Class Member seeking
27 to be excluded, and (v) a statement indicating their desire to be excluded, such as: "I wish to be
28

1 excluded from the Settlement of the Action, *Abigail Johnson v. SunWest Milling, Inc. and*
2 *SunWest Foods, Inc.*, Case No. 23CV02012, currently pending in Butte County Superior Court.”

3 4.9 **Timeliness.** For purposes of determining timeliness, a Request for Exclusion
4 shall be deemed to have been submitted on the date postmarked by the U.S. Postal Service or
5 other delivery service. The Administrator shall stamp the date received on the original of any
6 Request for Exclusion it receives. Not later than ten (10) calendar days after the Notice
7 Response Deadline, the Administrator will inform Class Counsel and Counsel for Defendants of
8 the total number of Class Members who timely submitted valid Requests for Exclusion.

9 4.10 **Non-Opt-Outs Bound.** Each Class Member who does not submit a valid request
10 for exclusion substantially in compliance with Paragraphs 4.8 and 4.9 by the Notice Response
11 Deadline shall be bound by the terms of this Agreement, any Court order approving the terms of
12 the Settlement, and the Final Approval Order and Judgment entered thereon.

13 4.11 **Resolution of Disputes Regarding Opt-Outs.** In the event of any issue over the
14 completeness, accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall meet
15 and confer in good faith for the purpose of resolving the issue and, if the issue cannot be
16 resolved, shall submit the dispute to the Court for a final and binding determination that shall
17 not be appealable.

18 4.12 **Defendants’ Right to Rescind.** If at least ten percent (10%) of the prospective
19 Class Members request exclusion, then Defendants shall have the option, in their sole discretion,
20 to nullify and rescind this Agreement, in which case all of Defendants’ obligations under this
21 Agreement shall cease to be of any force or effect, and this Agreement shall be null and void. If
22 Defendants exercise this option, it shall provide Class Counsel with written notice of its election
23 within seven (7) calendar days of the Administrator informing Class Counsel and Defense
24 Counsel of the total number of Class Members who timely submitted valid Requests for
25 Exclusion, with a copy to the Administrator, at which point the Parties shall return to their
26 respective positions that existed before the execution of this Agreement, and no term of this
27 Agreement or any draft thereof, or the negotiation, documentation, or other part or aspect of the
28 Parties’ settlement discussions, shall have any effect or be admissible as evidence for any

1 purpose in the Action, or in any other proceeding. In the event that the Settlement is rendered
2 null and void, the certification of the Class shall be automatically vacated and shall not
3 constitute evidence of or a binding determination that the requirements for certification of a
4 class or collective action have been met. In such circumstances, Defendants expressly reserve all
5 rights to challenge class certification for any purpose other than settlement purposes in the
6 Action, or in any other action, on all available grounds as if no class had been certified for
7 settlement purposes, and no reference to the prior certification of this class, or any documents
8 related thereto, shall be made for any purpose.

9 4.13 **Objections.** Only Class Members who have not submitted a Request for
10 Exclusion (“Participating Class Members”) may object to the Settlement.

11 4.14 **Manner of Objecting.** Participating Class Members who wish to object to the
12 Settlement must send to the Administrator a personally signed, written statement objecting to
13 the Settlement (“Objection(s)”) postmarked on or before the Notice Response Deadline. The
14 Objection must contain (i) the name of this Action; (ii) the full name, address, telephone
15 number, and last four digits of the Social Security Number of the person objecting as well as the
16 full name, address, and telephone number of any attorney representing said person with respect
17 to the objection; (iii) the words “Objection” at the top of the document; (iv) be personally signed
18 by the Participating Class Member seeking to object to the Settlement, and (v) a statement of the
19 basis for their objections and whether or not the Participating Class Member wishes to appear at
20 the Final Approval Hearing to present oral argument. Participating Class Members who timely
21 submit an Objection in conformity with the requirements set forth herein may, but are not
22 required to, appear at the Final Approval Hearing. No later than ten (10) calendar days from the
23 Notice Response Deadline, the Administrator shall provide copies of all Objections received
24 from Participating Class Members, along with documents showing the postmarked date for each
25 Objection, to Counsel for all Parties.

26 4.15 **Plan of Allocation and Calculation of Settlement Awards.** The Administrator
27 shall be responsible for calculating the share of the Net Settlement Fund that Class Members are
28 eligible to receive under the Settlement (“Individual Settlement Share(s)”) on a *pro rata* basis as

1 follows:

2 4.15.1 The Administrator shall determine the amount of the Net Settlement
3 Fund.

4 4.15.2 To determine each Class Member's estimated Individual Settlement
5 Share, the Administrator shall calculate the total number of Qualifying Workweeks worked by
6 the Class Members during the Class Period. The Administrator will then divide the Net
7 Settlement Fund by the total Qualifying Workweeks worked by the entire Class during the Class
8 Period to arrive at a "Workweek Value." The Administrator will then take that Workweek Value
9 and multiply it by the number of Qualifying Workweeks worked by each Class Member to yield
10 his or her Individual Settlement Share. To calculate final Individual Settlement Shares of
11 Participating Class Members, the Administrator shall perform the same calculation based on the
12 Qualifying Workweeks of the Participating Class Members.

13 4.15.3 Participating Class Members will be paid their Individual Settlement
14 Share subject to reduction for employee's share of withholdings and employer' share of taxes
15 with respect to the wages portion of the Individual Settlement Shares; the net payment after
16 reduction for Withholdings and Taxes is the "Individual Settlement Payment(s)."

17 4.16 In the event a dispute arises with respect to an Individual Settlement Share
18 calculation, the Administrator shall make the final and binding determination of the amount to
19 be awarded, which shall not be appealable.

20 4.17 **Allocation and Taxes.** The payment by Defendants pursuant to this Agreement
21 is for alleged failure to pay compensation due, interest on the compensation, premium pay,
22 penalties regarding the compensation sum, and all other claims as set forth in the Complaint.
23 The Parties agree, for purposes of this Settlement, that Individual Settlement Payments be
24 allocated 20% to wages subject to withholdings for which IRS W-2 Forms shall be issued by the
25 Administrator, and 80% to interest, penalties, and non-wage damages for which IRS 1099
26 Forms shall be issued by the Administrator. In accordance with both state and federal tax laws,
27 the Administrator shall withhold such sums from each Participating Class Member's Individual
28 Settlement Share as is required in order to comply with the same. The Individual Settlement

1 Shares will be subject to reduction for the Withholdings and Taxes. Each Participating Class
2 Member receiving payment under this Settlement shall be responsible for paying his or her
3 share of applicable federal, state, and local income taxes on all amounts such person receives
4 pursuant to this Agreement.

5 **4.18 Administrator Responsibilities Regarding Taxes.** It shall be the responsibility
6 of the Administrator or its designee to timely and properly withhold all applicable Withholdings
7 and Taxes, and to prepare and deliver the necessary tax documentation for signature by all
8 necessary parties and, thereafter, to pay the Withholdings and Taxes to the appropriate
9 authorities, and to file all necessary information and other tax returns. Payments to Participating
10 Class Members, Plaintiff, and Class Counsel pursuant to this Agreement shall be reported on
11 IRS Forms W-2 or 1099-MISC as applicable, with copies provided to the respective
12 Participating Class Members, Plaintiff, Class Counsel, and all applicable governmental entities
13 as required by law, and also to Defendants. All Withholdings and Taxes deposited with the
14 applicable governmental entities in accordance with this Agreement shall be part of, and paid
15 out of, the Individual Settlement Shares to each Settlement Class Member. The Administrator
16 shall also provide Defendants with appropriate documentation establishing that the
17 Defendants/employer's share of any and all payroll taxes (including, but not limited to, FICA,
18 FUTA and SDI contributions) has been paid from the GSF.

19 **4.19 Tax Expenses Resulting from Administration.** All reasonable and direct
20 expenses and costs incurred by or at the direction of the Administrator in connection with the
21 administration of the Settlement (including, without limitation, expenses of tax attorneys and/or
22 accountants incurred in providing advice to the Administrator, and mailing and distribution
23 costs and expenses relating to the filing (or failure to file) the informational and other tax returns
24 described above) shall be considered a cost of administration of the Settlement and shall be part
25 of the Administration Costs, to be paid out of the Gross Settlement Fund in accordance with the
26 terms of this Agreement.

27 **4.20 No Effect on Benefits for Participating Class Members.** Plaintiff agrees,
28 on behalf of herself and all Participating Class Members, that this Agreement and any payments

1 under this Agreement shall not have any effect on the eligibility or calculation of employee
2 benefits with respect to the Participating Class Members. This Agreement does not represent
3 any modification of any previously credited hours of service, income, or other eligibility criteria
4 under any employee pension benefit plan, employee welfare benefit plan, or other program or
5 policy sponsored by any of the Released Parties.

6 4.21 Plaintiff also agrees, on behalf of all Participating Class Members, that no
7 payment provided under this Agreement shall be considered “compensation” or “annual
8 earnings for benefits” in any year for purposes of determining eligibility for, or benefit accrual
9 within, any employee pension benefit plan, employee welfare benefit plan, or other program or
10 policy sponsored by any of the Released Parties.

11 4.22 **No Claims.** No person shall have any claim against any of the Released Parties,
12 Counsel for Defendants, Plaintiff, the Class Members, or Class Counsel, based on mailings,
13 distributions, and payments made in accordance with or pursuant to this Agreement.

14 4.23 **Final Approval and Entry of Judgment.** Following the Notice Response
15 Deadline and before the Final Approval Hearing, on or before the date set by the Court, Plaintiff
16 shall move for Final Approval of the Settlement, requesting that the Court enter an order and
17 judgment granting final approval of the Settlement in a form that is mutually agreed upon by the
18 Parties (“Final Approval Order and Judgment”).

19 4.24 **Distribution of Settlement Awards.** After the Effective Date, the Individual
20 Settlement Payments shall be distributed to Participating Class Members in accordance with the
21 procedures set forth below:

22 4.25 **Remittance of Gross Settlement Fund.** Defendants shall fund the GSF thirty
23 (30) calendar days after the Effective Date.

24 4.26 **Delivery of Payments.** On receipt of the GSF from Defendants, the
25 Administrator shall distribute forthwith: (a) the Attorneys’ Fees and Costs Payment to Class
26 Counsel, (b) the Individual Settlement Payment checks to all Participating Class Members, (c)
27 the LWDA Payment to the LWDA, (d) the Service Payment to Plaintiff, and (e) the
28 Withholdings and Taxes to the appropriate government entities. Within ten (10) calendar days

1 from full funding of the GSF, the Administrator shall transmit payment to itself for the
2 Administration Costs. Also, within seven (7) calendar days from the Effective Date, the
3 Administrator shall provide Class Counsel and Counsel for Defendant a written report listing
4 each Participating Class Member, the amount of the Individual Settlement Payment to be paid to
5 each Participating Class Member, the amount of Withholdings and Taxes associated with each
6 Individual Settlement Payment, including the amount of the employer's share of any and all
7 payroll taxes and contributions. Class Counsel shall hold the information contained in this report
8 in strictest confidence and not use or disclose it for any purpose, except on the written
9 authorization of counsel for Defendants or by order of the Court. Additionally, by no later than
10 the date set by the Court in its Final Approval Order and Judgment, the Administrator shall file
11 a report with the Court setting forth (1) the total amount of money paid to Participating Class
12 Members, (2) the PAGA Payment, including the LWDA Payment to the LWDA, (3) the Service
13 Payment paid to Plaintiff, (4) the payment made to itself for the Administration Costs, and (5)
14 the Attorneys' Fees and Costs paid to Class Counsel.

15 **4.27 Negotiation of Individual Settlement Payment Checks.** Checks sent to
16 Participating Class Members under this Agreement shall remain valid and negotiable for one
17 hundred and eighty (180) calendar days from the date of their mailing, and thereafter shall be
18 automatically canceled if not cashed or otherwise negotiated by the payee within that time. The
19 Administrator will provide notice to Class Counsel of any uncashed checks, and the
20 Administrator shall have responsibility to attempt to locate the impacted Participating Class
21 Members and, if a request to re-issue a check is made before the 180-day deadline, re-issue
22 checks with an expiration date within 180 calendar days following the re-issuing of the checks.

23 **4.28** If a Participating Class Member has not cashed a check by the 30th day from the
24 date of the check's issuance, the Administrator shall send a postcard to the Class Member to
25 remind each to cash their check before the void date.

26 **4.29** The Administrator will issue checks for the PAGA Payments and send them to
27 PAGA Members via First Class U.S. Mail, postage prepaid. The face of each check shall
28 prominently state the date (not less than 180 days after the date of mailing) when the check will

1 be voided. The Administrator will cancel all checks not cashed by the void date.

2 4.30 If any Individual Settlement Payment checks or PAGA Payments are not cashed
3 within 180 calendar days of issuance, they shall be cancelled, and monies associated with said
4 cancelled checks shall be sent to the Unclaimed Property Division of the California State
5 Controller's office with an identification of each Participating Class Member and the amount
6 attributable to each Participating Class Member to be held and distributed in accordance with
7 California Unclaimed Property Law, California Code of Civil Procedure § 1500 *et seq.*

8 Defendants shall be returned the proportional amount of the employer's share of taxes from any
9 such cancelled settlement checks within three (3) months of the expiration date of such checks.

10 Plaintiff shall report to the Court the total amount actually paid to the Participating Class
11 Members 60 calendar days after the expiration date of all checks.

12 4.31 **Discharge of Obligations.** Defendants shall fully discharge their obligations to
13 Plaintiff and the Class through the remittance of the Gross Settlement Fund to the Administrator
14 as set forth in Paragraph 4.25 above, regardless of whether checks representing Individual
15 Settlement Payments are actually received and/or negotiated by Participating Class Members.
16 Once Defendants have complied with their obligations set forth in Paragraph 4.25 above, they
17 will be deemed to have satisfied all terms and conditions under this Agreement, shall be entitled
18 to all protections afforded to them under this Agreement, and shall have no further obligations
19 under the terms of this Agreement, regardless of what occurs with respect to the further
20 administration of the Settlement.

21 4.32 **Questions and Disputes.** In the event that questions or disputes arise regarding
22 the entitlement of any Class Member under this Agreement, counsel for each of the Parties shall
23 cooperate to provide to counsel for the other Party and the Administrator all available
24 information reasonably necessary to resolve them. Such information shall be provided in either
25 electronic form or hard copy, as the Administrator may reasonably request. If the Parties cannot
26 resolve any dispute concerning the entitlement of any Class Member under this Agreement, the
27 dispute(s) shall be submitted to the Administrator for resolution.

28 4.33 **Notification and Certification by the Administrator.** The Administrator shall

1 keep Defense Counsel and Class Counsel apprised of the status of the Settlement administration
2 process and its distribution of Individual Settlement Payments. Upon completion of
3 administration of the Settlement, the Administrator shall provide a detailed, written certification
4 of such completion to the Court and counsel for the Parties.

5 4.34 **Nullification of Agreement if Settlement Not Approved.** In the event: (a) the
6 Court does not preliminarily approve the Settlement as provided herein; (b) the Court does not
7 finally approve the Settlement as provided herein; (c) the Court does not enter the Final
8 Approval Order and Judgment as provided herein; or (d) the Settlement does not become final
9 for any other reason, including the exercise of Defendants' right to reject the Settlement under
10 Section 4.12, above, this Agreement shall be null and void *ab initio* (with the exception of this
11 Section and terms regarding payment to Administrator) and any order or judgment entered by
12 the Court in furtherance of this Settlement shall be treated as withdrawn or vacated by
13 stipulation of the Parties. In such cases, Defendants on the one hand, and Plaintiff on the other
14 hand, will remain equally (50%) responsible for the fees incurred to that date by the
15 Administrator, except that Defendants shall be solely responsible for the fees incurred by the
16 Administrator in the event Defendants exercise their option to rescind this Agreement pursuant
17 to Section 4.12 above. In the event an appeal is taken from the Final Approval Order and
18 Judgment, or any other appellate review is sought before the Effective Date, administration of
19 the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

20 **V. ENTRY OF JUDGMENT AND RELEASES**

21 5.1 **Obtaining Approval.** As soon as practicable after execution of this Agreement,
22 Class Counsel shall, with the cooperation of Defense Counsel as reasonably requested by Class
23 Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of the
24 Settlement by the Court, including responding to any objectors, intervenors, or other persons or
25 entities seeking to prevent approval of this Agreement.

26 5.2 **Plaintiff's Waiver of Right to Opt-Out.** By signing this Agreement, named
27 Plaintiff agrees to be bound by the terms herein and further agrees not to request exclusion from
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1 this Agreement. Any such request for exclusion shall, therefore, be void and of no force or
2 effect.

3 **5.3 The Class Release.** Participating Class Members agree to release, waive, not to
4 sue, file an administrative charge/complaint, or otherwise make any claim against any of the
5 Released Parties seeking any form of relief, remedy, or recovery based on any of the Released
6 Claims, which shall include any and all claims, rights, demands, and/or liabilities of every
7 nature and description, whether known or unknown, based on or arising out of the Released
8 Claims. It is the intent of the Parties that the Final Approval Order and Judgment entered by the
9 Court shall have full *res judicata* and collateral estoppel effect, and that it be final and binding
10 upon Participating Class Members regarding the Released Claims.

11 **5.4 Named Plaintiff's General Release.** Upon the Effective Date, and in
12 consideration of the promises and obligations set forth herein, named Plaintiff Abigail Johnson,
13 and each of her successors, assigns, heirs, personal representatives, and all those who claim
14 through her, or who assert claims on her behalf, agrees to a general release of any and all claims
15 against the Released Parties, and Plaintiff shall be deemed to have, and by operation of the Final
16 Approval Order and Judgment shall have, expressly released, waived, and relinquished any and
17 all rights to allege or seek any form of relief, remedy, or recovery based on any of the Released
18 Claims. Upon the Effective Date, Plaintiff agrees not to sue or otherwise make a claim or charge
19 against any of the Released Parties for any of the Released Claims, and also expressly releases
20 and waives any and all claims, demands, rights, liabilities, and causes of action he has had or
21 ever had against any of the Released Parties, whether for economic damages, noneconomic
22 damages, punitive damages, penalties, restitution, injunctive or declaratory relief, interest,
23 attorneys' fees, costs, or any other forms of monetary or non-monetary relief in any way arising
24 out of or relating to any facts, transactions, events, policies, practices, occurrences, acts,
25 conduct, disclosures, statements, omissions, or failures to act at any time on or before the
26 Effective Date, including, but not limited to, any claims arising from or related to her
27 employment or separation of employment with Defendants, contractual and/or quasi-contractual
28 relationship with the Defendants and the Released Parties, or any of them; any allegations as to

1 disputed or unpaid wages, remuneration, and/or other compensation due by operation of statute,
2 ordinance, contract, or quasi-contract; any federal, state, or local law prohibiting discrimination
3 or retaliation on the basis of age, race, color, ancestry, religion, disability, sex, national origin,
4 or citizenship or any other protected category, including, without limitation, claims under Title
5 VII, the California Fair Employment and Housing Act, the California Labor Code, FLSA, the
6 California IWC Orders, the Employee Retirement Income Security Act, California Labor Code,
7 the Americans With Disabilities Act, and any other similar public policy or statutes whatever
8 the city, county, state, or country of enactment; any claims under the Family and Medical Leave
9 Act of 1993 and/or the California Family Rights Act; any tort or common law claims, and any
10 transactions, incidents, events, conduct, occurrences, acts, statements, disclosures, or omissions,
11 occurring before the Effective Date. This general release by Plaintiff shall become effective
12 upon the Effective Date and include all statutory claims, common law claims, tort claims, and
13 claims for compensation to the fullest and broadest extent permitted by law.

14 **5.5 Waiver of California Civil Code Section 1542.** Plaintiff acknowledges that the
15 general release herein includes potential facts, claims, and injuries/harm that may not be known
16 or suspected by her to exist, and she hereby expressly and affirmatively waives and relinquishes
17 any and all rights and benefits that she may otherwise have, on an individual basis, relating to
18 the claims released in Paragraph 5.4 pursuant to California Civil Code section 1542, and any
19 similar law of any state or territory of the United States. California Civil Code section 1542
20 states as follows:

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

25 **VI. ADDITIONAL PROVISIONS**

26 **6.1 No Admission of Liability.** Defendants have denied and continues to deny each
27 and every alleged claim, contention, liability, wrongdoing, and injury arising out of any of the
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1 facts or conduct alleged in the Complaint, and believes they did not violate any law, and that
2 they also have valid defenses to the alleged claims. This Agreement reflects the compromise and
3 settlement of disputed claims between the Parties, and their provisions and any and all drafts,
4 communications, or discussions relating thereto do not constitute, are not intended to constitute,
5 and will not under any circumstances be deemed to constitute an admission by any Party as to
6 the merits, validity, or accuracy of any of the allegations or claims in the Action, nor a waiver of
7 any defense.

8 **6.2 Parties Represented by Counsel.** The Parties hereby acknowledge that they
9 have been represented in negotiations for and in the preparation of this Agreement by
10 independent counsel of their own choosing, they have read this Agreement and have had it fully
11 explained to them by such counsel, and they are fully aware of the contents of this Agreement
12 and of its legal effect.

13 **6.3 Construction.** The Parties agree that the terms and conditions of this Settlement
14 are the result of lengthy, intensive arm's-length negotiations, and a mediation session held on
15 April 16, 2024 with Marsili Mediation between the Parties, and that this Settlement shall not be
16 construed in favor of or against any Party by reason of the extent to which any Party or his, her,
17 or its counsel participated in the drafting of this Settlement.

18 **6.4 Voluntary Agreement.** This Agreement is executed voluntarily and without
19 duress or undue influence on the part of or on behalf of either Party, or of any other person,
20 firm, or entity. Each Party has made such investigation of the facts pertaining to this Agreement
21 and of all other matters pertaining hereto as he, she, or it deems necessary.

22 **6.5 Notices.** Aside from the Notice of Class Action Settlement, all other notices,
23 requests, demands, and other communications required to be given under this Agreement shall
24 be in writing and shall be delivered personally, faxed, emailed or mailed, postage prepaid, by
25 first class United States mail, addressed as follows:
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To Plaintiff and Class Counsel:

Sang (James) Park
sang@park-lawyers.com
PARK APC
8383 Wilshire Blvd., Suite 800
Beverly Hills, CA 90211

To Defendants and Defense Counsel:

Hallie R. Spaulding
hspaulding@pkwhlaw.com
Dayra Juarez
djuarez@pkwhlaw.com
PALMER KAZANJIAN WOHL HODSON LLP
2277 Fair Oaks Boulevard, Suite 455
Sacramento, CA 95825

6.6 The Parties and their Counsel agree that they shall not issue media releases regarding the terms of this Settlement. In the event Class Counsel references the Settlement on their websites, Class Counsel will simply refer to Defendants as a “Food Company.” These provisions shall in no way impede and/or impair Class Counsel and/or the Plaintiff from fulfilling their obligations to the Class, or their obligations to obtain preliminary and final approval of the Settlement.

6.7 **Authorization.** The Parties represent and warrant that each signatory hereto has the full right and authority to enter into this Agreement and bind the Party.

6.8 **Agreement Binding on Successors in Interest.** This Agreement shall be binding on and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the Parties.

6.9 **Time Periods.** The time periods and dates set forth in this Agreement with respect to the giving of notices and hearings are subject to approval and modification by the Court or the written stipulation of counsel for the Parties.

6.10 **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to accomplish the terms of this Agreement, including, but not limited to, execution and delivery

1 of any and all additional papers, documents, and other assurances, and taking such other action
2 that may be reasonably necessary to implement the terms of this Agreement. The Parties and
3 their counsel shall use their best efforts, including all efforts contemplated by this Agreement
4 and any other efforts that may become necessary by order of the Court, to effectuate this
5 Agreement and the terms set forth herein.

6 6.11 **Entire Agreement.** This Agreement contains the entire agreement between the
7 Parties and constitutes the complete, final, and exclusive embodiment of their agreement with
8 respect to the subject matter hereof. This Agreement is executed without reliance upon any
9 promise, representation, or warranty by either Party or any representative of a Party, other than
10 those expressly set forth herein.

11 6.12 **Headings.** The various headings used in this Agreement are solely for the
12 convenience of the Parties and shall not be used to define, limit, extend, or describe the scope of
13 this Agreement or any provision thereof.

14 6.13 **Amendment and Modification.** This Agreement may not be amended, altered,
15 or modified except in writing and signed by all the Parties hereto, their successors in interest, or
16 their counsel, and approved by the Court.

17 6.14 **Governing Law.** This Agreement is entered into in accordance with the laws of
18 the State of California and shall be governed by and interpreted in accordance with those laws.

19 6.15 **Jurisdiction of the Court.** Any dispute regarding the interpretation, validity, or
20 otherwise arising out of this Agreement, or relating to the Action or the Released Claims, shall
21 be subject to the exclusive jurisdiction of the Court. Plaintiff, Class Members, PAGA Members,
22 and Defendants agree to submit to the personal and exclusive jurisdiction of the Court for the
23 purpose of resolving any such dispute. Following the Effective Date, the Court shall retain
24 jurisdiction solely with respect to the interpretation, implementation, and enforcement of this
25 Agreement and all orders and judgments entered in connection therewith, and the Parties and
26 their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing,
27 and enforcing the Settlement embodied in this Agreement and all orders and judgments entered
28 in connection therewith.

1 **6.16 Agreement Constitutes a Complete Defense.** To the extent permitted by law,
2 this Agreement may be pleaded as a full and complete defense to any action, suit, or other
3 proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to any term
4 of this Agreement.

5 **6.17 Execution Date and Execution in Counterparts.** This Agreement shall be
6 deemed executed and enforceable upon the last date of signature of all of the undersigned. The
7 Parties may execute this Agreement in counterparts, each of which shall constitute an original,
8 but all of which together shall constitute one and the same instrument having the same force and
9 effect as if all Parties had signed the same instrument.

10 **6.18 Signatures.** The Parties agree that this Agreement may be executed and
11 delivered via DocuSign, Assured Sign, Hello Sign, PandaDoc, electronic mail (including PDF),
12 and/or any other electronic signature complying with the U.S. federal ESIGN Act of 2000 and
13 California's Uniform Electronic Transactions Act (Civ. Code § 1633.1, et. seq.). Any
14 counterpart so executed and delivered shall be deemed valid and enforceable, and fully and
15 validly delivered, for all purposes.

16 **6.19 Stay of Litigation.** The Parties agree that upon the execution of this Agreement
17 the litigation shall be stayed, except to effectuate the terms of this Agreement, until Final
18 Approval is granted. The Parties further agree that upon the signing of this Agreement that
19 pursuant to CCP section 583.330 the date to bring a case to trial under CCP section 583.310
20 shall be tolled until Final Approval.

21 IN WITNESS THEREOF, the Parties hereto have so agreed.

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24 DATED: 08-22-2024


SUNWEST MILLING, INC.

25 By: Suzanne Weber
26 Name: Suzanne Weber
27 Title: Plant Manager
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DATED: 08-22-2024

SUNWEST FOODS, INC.

By: 
Name: Heather Schroeder
Title: SVP, Finance

DATED: 2024-06-13


PLAINTIFF ABIGAIL JOHNSON

By: 
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:


DATED: August 23, 2024

PALMER KAZANJIAN WOHL HODSON LLP

By: 
Hallie R. Spaulding
Dayra Juarez
Attorneys for Defendant

DATED: 2024-06-13

PARK APC

By: 
Sang (James) Park
Attorneys for Plaintiff