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12 *Page]*

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15 CLAUDIA GRANCIANO, individually and  
16 on behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 SOUTHWIND FOODS, LLC, a California  
20 limited liability company; STAFFPOINT,  
21 LLC, a California limited liability company;  
22 and DOES 1 through 50, inclusive,

23 Defendants.

Case No. BC538900

CLASS ACTION

**AMENDED STIPULATION REGARDING  
CLASS ACTION SETTLEMENT AND  
RELEASE**

*Assigned for All Purposes to:  
Hon. Kenneth R. Freeman, Dept. 14*

Action Filed: March 11, 2014  
Trial Date: None

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*Attorney for Cross-Defendant ASHWIN SYAL*



1 definition;

2 WHEREAS, on June 19, 2015, Southwind filed its Answer to the FAC, and also filed a  
3 Cross-Complaint against Staffpoint, Alliance, and Syal for alleged breach of contract, contractual  
4 indemnity, equitable indemnity, comparative indemnity and contribution, declaratory relief,  
5 promissory fraud, and negligent misrepresentation;

6 WHEREAS, on July 8, 2015, Granciano filed a Second Amended Class Action Complaint  
7 (“SAC”) with leave of Court, adding Contreras as an additional Plaintiff who, like Granciano,  
8 seeks relief for alleged violations of California Labor Code section 226(a), but also seeks relief  
9 pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) (Cal. Lab. Code §§  
10 2698, *et seq.*) on behalf of himself and other aggrieved employees;

11 WHEREAS, on August 7, 2015, Southwind answered the SAC;

12 WHEREAS, on August 11, 2015, Staffpoint answered the SAC;

13 WHEREAS, on September 17, 2015, Alliance answered the SAC;

14 WHEREAS, on February 8, 2016, the Court overruled the demurrer to Southwind’s Cross-  
15 Complaint by Alliance and Syal;

16 WHEREAS, the Parties have exchanged certain documents, information, data, calculations  
17 and analyses relating to the claims and defenses in the operative Complaint and Cross-Complaint  
18 through formal and informal discovery;

19 WHEREAS, on February 25, 2016, the Parties participated in an all-day mediation before  
20 the Honorable Judge Carl J. West (Ret.) of JAMS in Los Angeles, an experienced and well-known  
21 class action mediator, and reached an agreement on the material terms of a proposed settlement of  
22 claims and cross claims;

23 WHEREAS, between the time of mediation to approximately July, 2017, the Parties have  
24 addressed a significant issue with Defendants’ record-keeping in order to verify and augment the  
25 proposed Class List, which included substantial efforts by counsel for the Parties to resolve with  
26 guidance from the Court, and Plaintiffs’ counsel’s advancement of substantial litigation costs to  
27 Southwind and Alliance each for data processing work needed to complete the Class List and  
28 maintain key, favorable features of the terms of the proposed settlement (e.g., notice by U.S. Mail,

1 opt-out settlement not requiring claims process, etc.);

2 WHEREAS, Defendants deny Plaintiffs' allegations of wrongdoing, fault or liability,  
3 contend the claims in the operative Complaint lack merit, would have continued to resist  
4 vigorously Plaintiffs' claims and contentions, and would have continued to assert their defenses  
5 thereto had this Stipulation not been reached; and have entered into this Stipulation to put the  
6 claims to rest finally and forever solely for the purpose of avoiding prolonged and expensive  
7 litigation, without acknowledging any fault, wrongdoing or liability; and

8 WHEREAS, Plaintiffs and their counsel believe that the claims asserted in the operative  
9 Complaint are meritorious, but they have considered and weighed the issues involved in  
10 establishing the validity of their claims and have concluded that, in light of the uncertainty of the  
11 outcome as well as the substantial risks and inevitable delay in proceeding to trial, compared to the  
12 benefits being provided hereby, the terms and conditions set forth herein are fair and reasonable  
13 and should be submitted to the Court for approval.

14 NOW, THEREFORE, without any admission or concession on the part of Plaintiffs or  
15 Cross-Complainant of any lack of merit of the Action, and without any admission or concession  
16 on the part of Defendants or Cross-Defendants of any liability or wrongdoing or lack of merit in  
17 the defenses, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties to this  
18 Stipulation, through their respective counsel, subject to the approval of the Court, in consideration  
19 of the benefits flowing to the Parties hereto from the Settlement, that all Released Claims as  
20 against the Released Parties shall be compromised, settled, released, and judgment entered, upon  
21 and subject to the following terms and conditions:

22 **1. DEFINITIONS**

23 The following capitalized terms shall have the following meanings unless otherwise  
24 defined herein:

25 1.1 "Action" means *Granciano, et al. v. Southwind Foods, LLC, et al.*, Los  
26 Angeles Superior Court Case No. BC538900, which is currently pending before the Honorable  
27 Kenneth R. Freeman in the Superior Court of the State of California, County of Los Angeles.

28 1.2 "Agreement," "Settlement Agreement," "Settlement" or "Stipulation"

1 means this Amended Stipulation Regarding Class Action Settlement and Release.

2           1.3     “Class Counsel” and “Plaintiffs’ Counsel” mean and refer to, collectively,  
3 Raymond P. Boucher, Esq., Shehnaz M. Bhujwala, Esq., and Neil M. Larsen, Esq. of Boucher  
4 LLP, and Sahag Majarian, II., Esq. of the Law Offices of Sahag Majarian, II.

5           1.4     “Class Counsel Fees” mean the amount of attorneys’ fees authorized by the  
6 Court to be paid to Class Counsel for the services they have rendered in prosecuting this Action.  
7 Class Counsel Fees are not to exceed Two Hundred Forty Nine Thousand Nine Hundred Seventy  
8 Five Dollars (\$249,975). Class Counsel Fees shall be paid from the Gross Settlement Fund. Any  
9 portion of the requested Class Counsel Fees not awarded to Class Counsel shall be part of the Net  
10 Settlement Fund and distributed to Settlement Class Members as provided in this Agreement.

11           1.5     “Class Counsel Costs” mean the amount authorized by the Court to be paid  
12 to Class Counsel for expenses and costs incurred in prosecuting this Action. Class Counsel Costs  
13 are not to exceed Twenty-Six Thousand Dollars (\$26,000). Class Counsel Costs shall be paid from  
14 the Gross Settlement Fund. Any portion of the requested Class Counsel Costs not awarded to  
15 Class Counsel shall be part of the Net Settlement Fund and distributed to Settlement Class  
16 Members as provided in this Agreement.

17           1.6     “Class” and “Class Members” mean all current and former non-exempt  
18 employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional  
19 Business Solutions, Inc. who worked in any of Southwind Foods, LLC’s facilities located in  
20 California at any time during the Class Period (March 11, 2010 through May 1, 2016). Defendants  
21 estimated as of January 2018 there are approximately 907 Class Members, including Plaintiffs.

22           1.7     “Class List” or “Class Information” means a list of Class Members that  
23 Defendants in good faith will compile from their records and provide to the Settlement  
24 Administrator. The Class List shall be in a computer-readable format, such as a Microsoft Excel  
25 spreadsheet, and shall include each Class Member’s full name, last known mailing address, last  
26 known telephone number, start date(s) of employment, end date(s) of employment, total  
27 Compensable Work Weeks, and Social Security numbers to the extent available from Defendants’  
28 records. The Class list shall also include the sum total of all Compensable Work Weeks for the

1 Class Members, which Defendants represented at mediation to be approximately 41,000 based on  
2 a partial Class List. Because Social Security numbers are included in the Class List, the Settlement  
3 Administrator will maintain the Class List in confidence, and access shall be limited to those with  
4 a need to use the Class List as part of the administration of the Settlement.

5 1.8 “Class Period” means the period from March 11, 2010 through May 1,  
6 2016.

7 1.9 “Class Representatives” mean Claudia Granciano and Ricardo Contreras in  
8 their capacity as representatives of the Class.

9 1.10 “Class Representative Service Awards” mean the amounts that the Court  
10 authorizes to be paid to each of the Plaintiffs if appointed as Class Representatives, not to exceed  
11 Ten Thousand Dollars (\$10,000) each, in addition to their Individual Settlement Payments, in  
12 recognition of their efforts made and risks incurred in assisting with the prosecution of the Action  
13 on behalf of Class Members, and as consideration for executing this Agreement and general  
14 release of their claims against Defendants.

15 1.11 “Compensable Work Weeks” mean the number of weeks worked by Class  
16 Members during the Class Period according to Defendants’ records. A workweek is defined as a  
17 fixed and regularly recurring period consisting of seven consecutive 24-hour periods totaling 168  
18 hours.

19 1.12 “Court” means the Superior Court of the State of California, County of Los  
20 Angeles.

21 1.13 “Cross-Defendants” mean Staffpoint, LLC, Alliance Professional Business  
22 Solutions, Inc., and Ashwin Syal.

23 1.14 “Defendants” mean Southwind Foods, LLC, Staffpoint, LLC, and Alliance  
24 Professional Business Solutions, Inc.

25 1.15 “Defendants/Cross-Defendants” mean Southwind Foods, LLC, Staffpoint,  
26 LLC, Alliance Professional Business Solutions, Inc., and Ashwin Syal.

27 1.16 “Effective Date” means the later of one day after: (a) if no Class Member  
28 timely files a valid Objection to the Settlement, the date on which the Court grants final approval

1 of the Settlement; or (b) if a Class Member timely files a valid Objection to the Settlement but  
2 does not timely initiate an appeal, the date on which the time period expires for appeals by Class  
3 Members who timely submitted a valid Objection to the Settlement, from any Order ruling on any  
4 objections to the Settlement or granting final approval of the Settlement; or (c) if a Class Member  
5 timely files a valid Objection to the Settlement and timely initiates an appeal from any Order  
6 ruling on any objections to the Settlement or granting final approval of the Settlement, the  
7 resolution of any such appeal.

8           1.17   “Estimated Individual Settlement Payment” means the estimated amount  
9 payable to each Settlement Class Member who does not submit a valid and timely Request for  
10 Exclusion, as calculated pursuant to Paragraph 2.22 herein and assuming, for purposes of the  
11 calculation, that the Net Settlement Fund equals \$432,025 and that no Class Member submits a  
12 valid and timely Request for Exclusion.

13           1.18   “Final Approval Hearing” means the hearing at which the Court considers  
14 whether to finally approve the Settlement and to enter the Final Judgment.

15           1.19   “Final Approval Order” means the Court’s order granting final approval of  
16 the Settlement. The Parties will submit a proposed Final Approval Order to the Court in a form to  
17 be agreed upon by the Parties prior to the Final Approval Hearing.

18           1.20   “Final Judgment” means the Court’s order of final judgment in this Action  
19 following the Court’s entry of the Final Approval Order. The Parties will submit a proposed Final  
20 Judgment to the Court in a form to be agreed upon by the Parties prior to the Final Approval  
21 Hearing.

22           1.21   “FLSA Settlement Class Members” mean, and refer to, a Settlement Class  
23 Member who timely cashes his or her Individual Settlement Payment check, and thereby will be  
24 deemed to have opted into the action for purposes of the Fair Labor Standards Act (29 U.S.C. §§  
25 201, *et seq.*) (“FLSA”), and thereby waived and released any claims such Settlement Class  
26 Members may have under the FLSA only as related to the Released Claims.

27           1.22   “LWDA PAGA Allocation” means the amount payable from the Gross  
28 Settlement Fund to the State of California’s Labor and Workforce Development Agency and the

1 Settlement Class, or \$10,000, as further specified in Paragraph 2.25 herein.

2           1.23    “Gross Settlement Fund” or “GSF” means Defendants/Cross-Defendants’  
3 total funding obligation under this Stipulation, exclusive of Defendants’ payroll tax obligations,  
4 which shall be paid separately by Southwind in addition to the GSF. The GSF is \$750,000. The  
5 GSF shall be paid as follows: \$623,500 by Southwind, \$50,000 by Travelers Casualty and Surety  
6 Company of America on behalf of Southwind, \$50,000 by Alliance, \$25,000 by Syal, and \$1,500  
7 by Staffpoint.

8           1.24    “Individual Settlement Payment” means the amount payable from the Net  
9 Settlement Fund to each Settlement Class Member who does not timely submit a Request for  
10 Exclusion from the Settlement.

11           1.25    “Net Settlement Fund” means the Gross Settlement Fund, less Class  
12 Counsel Fees, Class Counsel Costs, Class Representative Service Awards, Settlement  
13 Administration Costs, and the LWDA PAGA Allocation portion paid to the LWDA. Assuming all  
14 requested fees, costs, and awards are granted as requested, the Parties estimate this amount to be  
15 \$432,025.

16           1.26    “Notice of Settlement” means the Notice of Proposed Class Action  
17 Settlement (substantially in the form attached hereto as Exhibit “A”).

18           1.27    “Notice Packet” means the Notice of Proposed Class Action Settlement and  
19 self-addressed, stamped envelope (substantially in the form attached hereto as Exhibit A).

20           1.28    “Parties” mean Plaintiffs and Defendants/Cross-Defendants; and “Party”  
21 shall mean either Plaintiffs or Defendants/Cross-Defendants, individually.

22           1.29    “Payment Ratio” means the respective Compensable Work Weeks for each  
23 Class Member divided by the total Compensable Work Weeks for all Class Members.

24           1.30    “Plaintiffs” mean Plaintiffs Claudia Granciano and Ricardo Contreras.

25           1.31    “Plaintiffs’ Released Claims” mean all Released Claims as defined herein  
26 plus the general release described in Paragraph 2.11.

27           1.32    “Preliminary Approval” or “Preliminary Approval Date” means the date the  
28 Court enters the Preliminary Approval Order.



1 allocation of attorneys' fees and costs to Class Counsel pursuant to this Agreement, and (ii) the  
2 payment of the Class Representative Service Awards pursuant to this Agreement. It is the intent of  
3 the Parties that the judgment entered by the Court upon final approval of the Settlement shall have  
4 *res judicata* effect and be final and binding upon Plaintiffs and all Settlement Class Members  
5 regarding all of the Released Claims.

6 c. **FLSA Release:** Additionally, any Settlement Class Member who  
7 timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs,  
8 will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in  
9 the TAC under 29 U.S.C. §§ 201, *et seq.*, and waived and released any claims such Settlement  
10 Class Members may have under the FLSA only as related to the Released Claims.

11 d. **Released Claims and FLSA Release Do Not Include Civil Code**  
12 **Section 1542 General Release for Settlement Class Members:** For the sake of clarity, the  
13 Parties agree that the Released Claims, including the FLSA Release, consist of only those claims  
14 that meet the definition of Released Claims. **In other words, the releases contemplated by**  
15 **Settlement Class Members are not blanket waivers of California Civil Code section 1542 for**  
16 **all claims, potential or actual, known or unknown, for violations of California's Labor Code,**  
17 **Wage Orders or FLSA by current and former employees of Defendants.**

18 1.35 "Released Cross-Claims" mean any and all claims asserted by Southwind  
19 against Cross-Defendants in the Action, or that could have been asserted against Cross-Defendants  
20 in the Action, based upon the facts alleged in the operative Cross-Complaint.

21 1.36 "Released Cross-Defendants" mean Cross-Defendants on behalf of  
22 themselves, their parents, subsidiaries, agents, affiliates, directors, officers, and owners.

23 1.37 "Released Defendants" mean Defendants on behalf of themselves, their  
24 parents, subsidiaries, agents, affiliates, directors, officers, and owners. "Released Parties" mean  
25 Released Defendants and all Cross-Defendants, including Cross-Defendant Ashwin Syal, their  
26 parents, subsidiaries, agents, affiliates, directors, officers, and owners.

27 1.38 "Request for Exclusion" means the Request for Exclusion from the  
28 Settlement as outlined in the procedure set forth in Paragraph 2.17 below.

1                   1.39    “Response Deadline” means the date sixty (60) days after the Settlement  
2 Administrator mails Notice Packets to Class Members and the last date on which Class Members:  
3 (a) may postmark, fax or email Requests for Exclusion; (b) or file and serve Objections to the  
4 Settlement.

5                   1.40    “Settlement” means disposition of the Action pursuant to this Agreement.

6                   1.41    “Settlement Administration Costs” mean the amount to be paid to the  
7 Settlement Administrator from the Gross Settlement Fund for the administration of the Settlement.

8                   1.42    “Settlement Administrator” means Simpluris, Inc.

9                   1.43    “Settlement Class Members” or “Settlement Class” means all Class  
10 Members who do not opt out of the Settlement by timely submitting a Request for Exclusion.

11                   1.44    “Settlement Fund Account” means the bank account established pursuant to  
12 the terms of this Stipulation from which all monies payable under the terms of this Settlement  
13 shall be paid, as set forth herein.

14                   **2.       TERMS OF AGREEMENT**

15                   2.1     *Class Certification.* The Parties stipulate and agree to the conditional  
16 certification of this Action and all claims asserted in the operative Complaint pursuant to  
17 California Code of Civil Procedure section 382 for purposes of this Settlement only. Should the  
18 Settlement not become final and effective as herein provided, class certification pursuant to this  
19 Settlement shall be set aside (subject to further proceedings on the motion of any Party to certify  
20 or deny certification thereafter). The Parties’ willingness to stipulate to class certification as part  
21 of the Settlement shall have no bearing on, and shall not be admissible in or considered in  
22 connection with, the issue of whether a class should be certified in a non-settlement context in this  
23 Action and shall have no bearing on, and shall not be admissible or considered in connection with,  
24 the issue of whether a class should be certified in any other lawsuit.

25                   2.2     *Amendment of Operative Complaint.* As part of the Preliminary Approval  
26 process, Plaintiffs shall amend the operative Complaint to add a cause of action for unpaid wages  
27 pursuant to the FLSA and file it with the Court. Defendants will stipulate for leave to file the TAC  
28 as set forth in this Paragraph. In the event that the Settlement does not become final for any

1 reason, then any Order permitting the filing of the TAC shall be treated by the Parties as void *ab*  
2 *initio* and the SAC will become Plaintiffs' operative Complaint again.

3           2.3     *Jurisdiction.* The Parties agree that the Superior Court of California for  
4 County of Los Angeles has jurisdiction over the Action, and also that venue is proper in that  
5 Court.

6           2.4     *Benefits of Settlement to Settlement Class Members.* Plaintiffs and Class  
7 Counsel recognize the expense and length of continued proceedings necessary to litigate their  
8 disputes through trial and through any possible appeals. Plaintiffs have also taken into account the  
9 uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in  
10 such litigation. Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to  
11 establish liability for the claims asserted in the Action, both generally and in response to  
12 Defendants' defenses thereto (many of which have been shared at the mediation), and potential  
13 difficulties in establishing damages for the Settlement Class Members. Plaintiffs and Class  
14 Counsel have also taken into account Defendants' agreement to enter into a settlement that confers  
15 substantial relief upon Settlement Class Members, as well as their stated financial conditions. This  
16 is an opt-out Settlement with no claims process and no reversion of settlement funds to  
17 Defendants. Based on the foregoing, Plaintiffs and Class Counsel have determined that the  
18 Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the  
19 best interests of Settlement Class Members.

20           2.5     *Defendants' Reasons for Settlement.* Defendants have concluded that any  
21 further defense of this litigation would be protracted and expensive for all Parties. Substantial  
22 amounts of time, energy, and resources of Defendants have been and, unless this Settlement is  
23 made, will continue to be devoted to the defense of the claims asserted by Plaintiffs and Class  
24 Members. Defendants have also taken into account the risks of further litigation in reaching their  
25 decision to enter into this Settlement. Despite continuing to contend that they are not liable for any  
26 of the claims set forth by Plaintiffs in the Action, Defendants have, nonetheless, agreed to settle in  
27 the manner and upon the terms set forth in this Agreement to put to rest the claims as set forth in  
28 the Action.

1                   2.6     *Class Members' Claims.* Class Members, by and through Plaintiffs, have  
2 claimed and continue to claim that the Released Claims, including claims under the FLSA, have  
3 merit and give rise to liability on the part of Defendants. This Agreement is a compromise of  
4 disputed claims. Nothing contained in this Agreement and no documents referred to herein and no  
5 action taken to carry out this Agreement may be construed or used as an admission by or against  
6 the Class Members or Class Counsel as to the merits or lack thereof of the claims asserted.

7                   2.7     *Defendants' and Cross-Defendants' Defenses.* Defendants have claimed  
8 and continue to claim that the Released Claims, including the proposed claims under the FLSA,  
9 have no merit and do not give rise to liability. Likewise, Cross-Defendants have claimed and  
10 continue to claim that the Released Cross-Claims have no merit and do not give rise to liability.  
11 This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no  
12 documents referred to herein and no action taken to carry out this Agreement may be construed or  
13 used as an admission by or against Defendants or Cross-Defendants as to the merits or lack thereof  
14 of the claims or cross-claims asserted.

15                   2.8     *Maximum Amount Payable by Defendants.* Under the terms of this  
16 Settlement, the maximum amount payable by Defendants shall not exceed the Gross Settlement  
17 Fund of Seven Hundred Fifty Thousand Dollars (\$750,000), exclusive of Defendants' employer-  
18 side payroll tax obligations that shall be paid separately by Southwind in addition to the Gross  
19 Settlement Fund.

20                   2.9     *Class Size.* Defendants represented as of January 2018 that there are  
21 approximately 907 Class Members.

22                   2.10    *Release as to All Settlement Class Members.* As of the Effective Date, the  
23 Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs,  
24 successors, assigns, and estates, release the Released Parties from the Released Claims during the  
25 Class Period. Plaintiffs and Settlement Class Members agree not to sue or otherwise make a claim  
26 against any of the Released Parties for the Released Claims.

27                   2.11    *General Release by Plaintiffs Only.* In addition to the releases made by  
28 Settlement Class Members, Plaintiffs, on behalf of themselves, their heirs, successors, assigns, and

1 estates, in exchange for the terms and conditions of this Agreement, including the Service Awards  
2 requested or as otherwise authorized by the Court, shall also, as of the Effective Date, fully and  
3 forever release the Released Parties from Plaintiffs' Released Claims. With respect to Plaintiffs'  
4 Released Claims only, Plaintiffs shall be deemed to have, and by operation of the Final Judgment  
5 shall have, expressly waived and relinquished, to the fullest extent permitted by law, the  
6 provisions, rights, and benefits of section 1542 of the California Civil Code, or any other similar  
7 provision under federal or state law, which section provides:

8 *A general release does not extend to claims which the creditor does not know or*  
9 *suspect to exist in his or her favor at the time of executing the release, which if*  
10 *known by him or her must have materially affected his or her settlement with the*  
11 *debtor.*

12 Plaintiffs may hereafter discover facts in addition to or different from those they now know  
13 or believe to be true with respect to the subject matter of the Plaintiffs' Released Claims, but upon  
14 the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have,  
15 fully, finally, and forever settled and released any and all of Plaintiffs' Released Claims, whether  
16 known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or  
17 heretofore have existed, upon any theory of law or equity now existing or coming into existence in  
18 the future, including, but not limited to, conduct that is negligent, intentional, with or without  
19 malice or a breach of any duty, law or rule, without regard to the subsequent discovery or  
20 existence of such different or additional facts. Plaintiffs agree not to sue or otherwise make a claim  
21 against any of the Released Parties for Plaintiffs' Released Claims.

22 2.12 *Release by Southwind of Cross-Claims.* Southwind shall release Released  
23 Cross-Defendants from the Released Cross-Claims in exchange for Cross-Defendants'  
24 contributions towards the GSF and shall dismiss with prejudice the Cross-Complaint within seven  
25 (7) days of Released Cross-Defendants' respective payments to the Settlement Administrator of  
26 their respective shares of the GSF (if payments are made on different dates, then the seven day  
27 period runs from the last date on which any Released Cross-Defendant makes its/his payment).

28 2.13 *Tax Liability.* The Parties make no representations as to the tax treatment or

1 legal effect of the payments called for hereunder, and Plaintiffs and Settlement Class Members are  
2 not relying on any statement or representation by the Parties in this regard. Plaintiffs and  
3 Settlement Class Members understand and agree that they will be responsible for the payment of  
4 any employee-side taxes and penalties assessed on the payments described herein and will hold the  
5 Parties free and harmless from and against any claims resulting from treatment of such payments  
6 as non-taxable damages, including the treatment of such payments as not subject to withholding or  
7 deduction for payroll and employment taxes.

8           2.14 *No Knowledge Of Other Claims.* Class Counsel and Plaintiffs agree and  
9 represent that they are not aware of any claim that could have been brought against Defendants by  
10 any person or entity, other than the claims that were alleged in the Action, or could have been  
11 alleged based on the facts alleged in the Action.

12           2.15 *Settlement Approval and Implementation Procedures.* As part of this  
13 Settlement, the Parties agree to the following procedures for obtaining the Court's preliminary  
14 approval of the Settlement, certifying a class for settlement purposes only, notifying Class  
15 Members of the Settlement, obtaining the Court's final approval of the Settlement, and processing  
16 Individual Settlement Payments and other payments described herein.

17           a. *Preliminary Approval and Certification.* Plaintiffs' submission for  
18 Preliminary Approval will include this Agreement, the proposed Notice Packet, attached hereto as  
19 Exhibit A, the proposed Preliminary Approval Order, and any motions, memoranda, and evidence  
20 as may be necessary for the Court to determine that this Agreement is fair, adequate, and  
21 reasonable. Plaintiffs will request the Court to enter an order preliminarily approving the terms of  
22 the Agreement and the certification of a provisional settlement class, and requesting a Final  
23 Approval Hearing, in accordance with California law. Plaintiffs will provide Defendants a  
24 reasonable opportunity to review and provide comments regarding the briefing in support of  
25 Plaintiffs' preliminary approval application (at least two days prior to filing).

26           b. *Class Information.* No more than fifteen (15) calendar days after  
27 entry of the Preliminary Approval Order, Defendants shall provide the Settlement Administrator  
28 with the Class Information for purposes of mailing Notice Packets to Class Members.

1                                   c.       *Notice By First Class U.S. Mail.* Upon receipt of the Class  
2 Information, the Settlement Administrator will perform a search on the National Change of  
3 Address database to update the Class Members' addresses. No more than fourteen (14) calendar  
4 days after receiving the Class Information from Defendants as provided herein, the Settlement  
5 Administrator shall mail copies of the Notice Packet to all Class Members by regular First Class  
6 U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current  
7 mailing address for each Class Member. The address identified by the Settlement Administrator as  
8 the current mailing address shall be presumed to be the best mailing address for each Class  
9 Member. It will be conclusively presumed that, if an envelope so mailed has not been returned  
10 within thirty (30) days of the mailing, the Class Member received the Notice Packet.

11                                   d.       *Undeliverable Notices.* Any Notice Packets returned to the  
12 Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed  
13 to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement  
14 Administrator shall make reasonable efforts to obtain an updated mailing address within five (5)  
15 business days of the date of the return of the Notice Packet. If an updated mailing address is  
16 identified, the Settlement Administrator shall resend the Notice Packet to the Class Member. Class  
17 Members to whom Notice Packets are re-sent after having been returned undeliverable to the  
18 Settlement Administrator shall have fourteen (14) calendar days thereafter or until the Response  
19 Deadline has expired, whichever is later, to mail, fax or email the Request for Exclusion, or mail,  
20 fax or email a Notice of Objection. Notice Packets that are resent shall inform the recipient of this  
21 adjusted deadline. If a Class Member's Notice Packet is returned to the Settlement Administrator  
22 more than once as non-deliverable, then an additional Notice Packet shall not be re-mailed.

23                                   e.       Compliance with the procedures specified in Paragraph 2.15(a)-(e)  
24 herein shall constitute due and sufficient notice to Class Members of this Settlement and shall  
25 satisfy the requirement of due process. Nothing else shall be required of, or done by, the Parties,  
26 Class Counsel, and Defendants' counsel to provide notice of the proposed Settlement.

27                                   2.16   *Disputes Over Compensable Work Weeks.* Class Members will have the  
28 opportunity, should they disagree with Defendants' records regarding the number of respective

1 Compensable Work Weeks worked by a Class Member, as set forth in the Notice of Settlement, to  
2 provide documentation and/or an explanation to show contrary employment dates. If there is a  
3 dispute, the Settlement Administrator will consult with the Parties to determine whether an  
4 adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the  
5 amounts of, any Individual Settlement Payments under the terms of this Agreement. The  
6 Settlement Administrator's determination of the eligibility for and amount of any Individual  
7 Settlement Payment shall be binding upon the Class Member and the Parties.

8                   2.17 *Exclusions (Opt-Outs)*. The Notice Packet shall state that Class Members  
9 who wish to exclude themselves from the Settlement must submit a written Request for Exclusion  
10 by the Response Deadline. The Request for Exclusion: (1) must contain the name, address,  
11 telephone number, and last four digits of the Social Security number of the person requesting  
12 exclusion; (2) must be signed and dated by the Class Member; and (3) must be postmarked, faxed  
13 or email stamped by the Response Deadline and returned to the Settlement Administrator at the  
14 specified address, fax telephone number or email address. If the Request for Exclusion does not  
15 contain the information listed in (1)-(2), it will not be deemed valid for exclusion from this  
16 Settlement, except a Request for Exclusion form not containing a Class Member's telephone  
17 number and/or last four digits of their Social Security number will be deemed valid. The date of  
18 postmark on the Request for Exclusion, either based on the date on the return mailing envelope,  
19 date of the fax stamp or date of email transmission, shall be the exclusive means used to determine  
20 whether a Request for Exclusion has been timely submitted. Any Class Member who requests to  
21 be excluded from the Settlement Class will not be entitled to any recovery under the Settlement  
22 and will not be bound by the terms of the Settlement or have any right to object, appeal or  
23 comment thereon. Class Members who receive a Notice Packet but fail to submit a valid and  
24 timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of  
25 the Settlement and any Final Judgment entered in this Action if the Settlement is approved by the  
26 Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement  
27 Administrator shall provide counsel for the Parties with a complete list of all members of the Class  
28 who have timely submitted Requests for Exclusion. At no time shall any of the Parties or their

1 counsel seek to solicit or otherwise encourage any Class Member to submit a Request for  
2 Exclusion from the Settlement.

3           2.18 *Objections.* The Notice Packet shall state that Class Members who wish to  
4 object to the Settlement must mail a written statement of objection (“Notice of Objection”) to the  
5 Settlement Administrator by the Response Deadline. The date of postmark on the return envelope,  
6 fax date or email date shall be deemed the exclusive means for determining whether a Notice of  
7 Objection was timely submitted. The Notice of Objection must be signed by the Class Member  
8 and state: (1) the full name, address, and telephone number of the Class Member; (2) the dates of  
9 employment of the Class Member; (3) the job title(s) and job location(s) of the Class Member; (4)  
10 the last four digits of the Class Member’s Social Security number; (5) the basis for the objection;  
11 and (6) whether the Settlement Class Member intends to appear at the Final Approval Hearing,  
12 and provide any legal briefs, papers or memoranda the objecting Class Member proposes to  
13 submit to the Court. Class Members who fail to make objections in the manner specified above  
14 shall be deemed to have waived any written objections to the Settlement. No later than fourteen  
15 calendar (14) days after the Response Deadline, the Settlement Administrator shall provide  
16 counsel for the Parties with complete copies of all objections received, including the postmark  
17 dates or other proof of timely submission for each objection. At no time shall any of the Parties or  
18 their counsel seek to solicit or otherwise encourage Class Members to file or serve written  
19 objections to the Settlement or appeal from the Final Approval Order and Final Judgment. Class  
20 Counsel shall not represent any Class Members with respect to any such objections.

21           2.19 *No Solicitation of Settlement Objections or Exclusions.* The Parties agree to  
22 use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or  
23 their counsel seek to solicit or otherwise encourage Class Members to submit either written  
24 objections to the Settlement or Requests for Exclusion from the Settlement, or to appeal from the  
25 Court’s Final Judgment.

26           2.20 *Funding and Allocation of Settlement.* Defendants are required to pay the  
27 sum of the Individual Settlement Payments, the Class Representative Service Awards, Class  
28 Counsel Fees, Class Counsel Costs, the LWDA PAGA Allocation, and the Settlement

1 Administration Costs, as specified in this Agreement, up to the Gross Settlement Fund of Seven  
2 Hundred Fifty Thousand Dollars (\$750,000).

3 a. Within fifteen (15) calendar days following the Effective Date of the  
4 Settlement, Defendants/Cross-Defendants shall deposit into the Settlement Fund Account their  
5 respective shares of the Seven Hundred Fifty Thousand Dollars (\$750,000) Gross Settlement Fund  
6 owing in accordance with the terms of this Agreement. No distributions from the Settlement Fund  
7 Account shall occur until authorization in writing or via e-mail is provided to the Settlement  
8 Administrator by Class Counsel and Defendants' counsel. Any interest that accrues within the  
9 Settlement Fund Account shall be applied toward the Gross Settlement Fund.

10 b. No more than five (5) business days after the Settlement is fully  
11 funded, the Settlement Administrator will provide the Parties with an accounting of all anticipated  
12 payments and awards from the fund. Payments from the fund shall be made for (1) Individual  
13 Settlement Payments to Settlement Class Members, (2) the Class Representative Service Awards,  
14 as specified in this Agreement and approved by the Court; (3) Class Counsel Fees and Class  
15 Counsel Costs, as specified in this Agreement and approved by the Court; (4) Settlement  
16 Administration Costs, as specified in this Agreement and approved by the Court; and (5) the  
17 LWDA PAGA Allocation, as specified in this Agreement and approved by the Court.

18 2.21 *Individual Settlement Payments.* Individual Settlement Payments will be  
19 paid from the Net Settlement Fund and shall be paid pursuant to the formula set forth in Paragraph  
20 2.22 herein. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to  
21 Settlement Class Members' last known mailing address within fourteen (14) calendar days after  
22 the funding of the Settlement is completed. Individual Settlement Payments reflect settlement of a  
23 dispute regarding wages and interest/penalties. Individual Settlement Payments will be allocated  
24 as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent  
25 (20%) as wages. The Settlement Administrator shall issue the appropriate tax documents  
26 associated with the Individual Settlement Payments. Any checks issued to Settlement Class  
27 Members shall remain valid and negotiable for 180 days from the date of issuance.

28 a. *Unclaimed Wages.* Subject to the Court's approval and a finding of

1 good cause, the unclaimed amounts from any Individual Settlement Payment checks that were not  
2 cashed or deposited within 180 days from the date of issuance shall be held by the State of  
3 California Unclaimed Wages Fund of the Department of Industrial Relations. Under this proposal  
4 for distribution of unclaimed funds, if any Settlement Class Member does not cash or deposit his  
5 or her Individual Settlement Payment check within 180 days after issuance, then 10 business days  
6 after the 180-day deadline, the Settlement Administrator shall void the check and remit the funds  
7 to the State of California Unclaimed Wages Fund for the benefit of the employee, together with a  
8 spreadsheet identifying the information for each Settlement Class Member who did not timely  
9 cash or deposit his or her Individual Settlement Payment check and the amount of the uncashed  
10 check. The Parties agree that good cause exists for the Court to approve the proposed distribution  
11 pursuant to California Code of Civil Procedure section 384, because the unclaimed funds include  
12 unclaimed wages of employees that will be held by the State of California for the benefit of said  
13 employees, who may request receipt of payment from the State of California Unclaimed Wages  
14 Fund. Thus, the Parties believe that the proposed distribution would better serve the interests of  
15 Settlement Class Members than the distribution proposed in California Code of Civil Procedure  
16 section 384.

17 (i) However, if the Court ultimately decides that the distribution  
18 specified in California Code of Civil Procedure section 384 should instead occur (i.e., that good  
19 cause does not exist for the Parties' alternate distribution proposal described above), then the  
20 Parties agree to the following distribution by the Settlement Administrator as specifically  
21 permitted by California Code of Civil Procedure section 384 under the same timeline specified in  
22 Paragraph 2.21(a): Any unclaimed amounts from any Individual Settlement Payments to  
23 Settlement Class Members plus any accrued interest thereon that has not otherwise been  
24 distributed pursuant to order of the Court, shall be transmitted as follows: (1) twenty-five percent  
25 (25%) will be distributed to the State Treasury for deposit in the Trial Court Improvement and  
26 Modernization Fund, established in section 77209 of the Government Code, and subject to  
27 appropriation in the annual Budget Act for the Judicial Council to provide grants to trial courts for  
28 new or expanded collaborative courts or grants for Sargent Shriver Civil Counsel; and (2) seventy-

1 five percent (75%) will be distributed to the State Treasury for deposit into the Equal Access Fund  
2 of the Judicial Branch, to be distributed in accordance with sections 6216 to 6223, inclusive, of the  
3 Business and Professions Code, except that administrative costs shall not be paid to the State Bar  
4 or the Judicial Council from this sum.

5                   b.       *FLSA Settlement Class and Opt-In Language.* Each Settlement Class  
6 Member's Individual Settlement Payment check will include the following language  
7 acknowledging that, by cashing or depositing the Individual Settlement Payment check, that  
8 person is opting into the Action for purposes of the FLSA: "By endorsing this check for cash or  
9 deposit, I am hereby opting into the FLSA Settlement Class in the action entitled *Granciano, et al.*  
10 *v. Southwind Foods, LLC, et al.*, Los Angeles Superior Court Case No. BC538900, and I agree and  
11 acknowledge that by doing so the claims that I am releasing will also include any claims that I  
12 have under the FLSA (29 U.S.C. §§ 201, *et seq.*) only as to the Released Claims as set forth more  
13 fully in the Notice of Settlement." Settlement Class Members who timely cash their Individual  
14 Settlement Payments (and, in doing so, become FLSA Settlement Class Members) will be deemed  
15 to have opted into the Action for purposes of the FLSA and, as to those FLSA Settlement Class  
16 Members, the Released Claims include any claims such FLSA Settlement Class Members may  
17 have under the FLSA only as to the Released Claims. Only those Settlement Class Members who  
18 timely cash their settlement check will be deemed to have opted into the Action for purposes of  
19 the FLSA and thereby released and waived any of their claims under the FLSA only as to the  
20 Released Claims.

21                   2.22   *Calculation of Individual Settlement Payments.* Individual Settlement  
22 Payments to Settlement Class Members will be calculated by the Settlement Administrator as  
23 follows: The Settlement Administrator will calculate the Net Settlement Fund and 25% of the  
24 LWDA PAGA Allocation. Defendants will calculate the total Compensable Work Weeks for all  
25 Class Members and will provide that information to the Settlement Administrator. The respective  
26 Compensable Work Weeks for each Class Member, as set forth in the Class List by Defendants,  
27 will be divided by the total Compensable Work Weeks for all Class Members, resulting in the  
28 Payment Ratio for each Class Member. Each Class Member's Payment Ratio will then be

1 multiplied by the Net Settlement Fund to determine his or her Individual Settlement Payment. This  
2 is a “no claims made”, non-reversionary settlement. Thus, to the extent any Class Member validly  
3 requests exclusion, the portion of the Net Settlement Fund that would have been paid to the  
4 excluded Class Members(s) shall be distributed on an equal, *pro rata* basis among all Settlement  
5 Class Members as part of their Individual Settlement Payment. Each Individual Settlement  
6 Payment will be reduced by any legally mandated deductions for payroll taxes or other required  
7 withholdings. Southwind shall be responsible for payment of any employer-side payroll taxes in  
8 addition to Southwind’s payment of its share of the Gross Settlement Fund in the amount of  
9 \$623,500. Other than Plaintiffs, Settlement Class Members are not eligible to receive any  
10 compensation other than an Individual Settlement Payment, and they may only receive an  
11 Individual Settlement Payment if they do not timely and validly request exclusion.

12                   2.23 *Class Representative Service Awards.* Defendants agree not to oppose or  
13 object to any application or motion by Plaintiffs to be appointed Class Representatives and for a  
14 Class Representative Service Award to be paid to each Plaintiff, not to exceed Ten Thousand  
15 Dollars (\$10,000.00) each, as consideration for the release of all Released Claims, for the risks  
16 undertaken and potential stigma that may attach for filing this lawsuit against their former  
17 employer(s), and for their time and effort in bringing and prosecuting this matter for the benefit of  
18 Class Members. The Class Representative Service Awards shall be paid to Plaintiffs from the  
19 Gross Settlement Fund no later than fourteen (14) calendar days after funding of the Settlement is  
20 completed. The Settlement Administrator shall issue an IRS Form 1099–MISC to each Plaintiff  
21 for their Class Representative Service Award. Plaintiffs agree to provide the Settlement  
22 Administrator with an executed IRS Form W-9 before the Class Representative Service Awards  
23 are issued. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on  
24 their respective Class Representative Service Award and shall hold harmless Defendants from any  
25 claim or liability for taxes, penalties or interest arising as a result of the payment of Class  
26 Representative Service Awards. The Class Representative Service Awards shall be in addition to  
27 each Plaintiff’s Individual Settlement Payment as a Settlement Class Member. In the event that the  
28 Court awards less than the requested amount of each Class Representative Service Award, then

1 any portion of the requested amount not awarded to either or both Plaintiffs shall become part of  
2 the Net Settlement Fund. In the event the Court reduces or does not approve the requested Class  
3 Representative Service Awards, Plaintiffs shall not have the right to revoke their agreement to the  
4 Settlement, which shall remain binding on the Parties.

5           2.24 *Class Counsel Fees and Costs.* Defendants agree not to oppose or object to  
6 any application or motion by Class Counsel for attorneys' fees not to exceed Two Hundred Forty  
7 Nine Thousand Nine Hundred Seventy Five Dollars (\$249,975). Defendants also agree not to  
8 oppose or object to any application or motion by Class Counsel for reimbursement of actual costs  
9 incurred not to exceed Twenty-Six Thousand Dollars (\$26,000), as supported by declarations from  
10 Class Counsel. Class Counsel shall be paid any Court-approved fees and costs no later than  
11 fourteen (14) calendar days after the Settlement is fully funded. Class Counsel shall be solely and  
12 legally responsible to pay all applicable taxes on the payments made pursuant to this Paragraph.  
13 The Settlement Administrator shall issue an IRS Form 1099-MISC to Class Counsel for the  
14 payments made pursuant to this Paragraph. This Settlement is not contingent upon the Court  
15 awarding Class Counsel any particular amounts in attorneys' fees or costs. In the event the Court  
16 reduces or does not approve the requested amounts of Class Counsel Fees and/or Class Counsel  
17 Costs, the Settlement shall remain binding on the Parties. Any amounts requested by Class  
18 Counsel for Class Counsel Fees and Class Counsel Costs and not granted by the Court shall return  
19 to the Net Settlement Fund and be distributed as provided in this Agreement.

20           2.25 *PAGA.* Subject to Court approval, the Parties shall allocate a total of Ten  
21 Thousand Dollars (\$10,000) from the Gross Settlement Fund for the compromise of claims under  
22 PAGA, Cal. Lab. Code §§ 2698, *et seq.* California Labor Code section 2699(i) requires that the  
23 Parties distribute any settlement of PAGA claims as follows: seventy-five percent (75%) to the L  
24 WDA for enforcement of labor laws and education of employers; and twenty-five percent (25%)  
25 to "aggrieved employees." The Parties, therefore, agree that Seven Thousand Five Hundred  
26 Dollars (\$7,500) of the LWDA PAGA Allocation shall be paid to the LWDA from the Gross  
27 Settlement Fund by the Settlement Administrator no later than fourteen (14) calendar days after  
28 the Settlement is fully funded. The remaining Two Thousand Five Hundred Dollars (\$2,500) of

1 the LWDA PAGA Allocation shall be part of the Net Settlement Fund to be distributed in  
2 accordance with the terms of this Stipulation.

3           2.26 *Option to Terminate Settlement.* If, after the Response Deadline and before  
4 the Final Approval Hearing, the number of Class Members who submitted timely and valid  
5 Requests for Exclusion from the Settlement exceeds five percent (5%) of all potential Settlement  
6 Class Members, Defendants shall have, in their respective sole discretion, the option to terminate  
7 this Settlement. If Defendants exercise their option to terminate this Settlement, Defendants shall  
8 pay all Settlement Administration Costs incurred up to the date of termination.

9           2.27 *Settlement Administration Costs.* The Settlement Administrator shall be  
10 paid for the costs of administration of the Settlement from the Gross Settlement Fund. The  
11 Settlement Administrator has submitted a bid for services that is capped at \$14,500. No fewer  
12 than thirty (30) calendar days prior to the Final Approval Hearing, the Settlement Administrator  
13 shall provide the Parties with a statement detailing the costs of administration, showing the  
14 estimated Individual Settlement Payments to be made to Settlement Class Members, and listing  
15 the names and number of Class Members who have objected to or requested exclusion from the  
16 Settlement. The Settlement Administrator, on Defendants' behalf, shall have the authority and  
17 obligation to make payments, credits, and disbursements, including payments and credits in the  
18 manner set forth herein, to Settlement Class Members calculated in accordance with the  
19 methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in  
20 the settlement administration process and to make all reasonable efforts to control and minimize  
21 the cost and expenses incurred in administration of the Settlement.

22           2.28 *Settlement Administration.* The Parties each represent they do not have any  
23 financial interest in the Settlement Administrator or otherwise have a relationship with the  
24 Settlement Administrator that could create a conflict of interest. Plaintiffs' Counsel represents that  
25 they have carefully vetted the proposed Settlement Administrator for adherence to reasonable  
26 security measures and insurance coverage for cyber theft and losses from errors and omissions.  
27 The Settlement Administrator shall be responsible for: processing and mailing payments to the  
28 Class Representatives, Class Counsel, and Settlement Class Members; printing and mailing the

1 Notice Packets to Class Members as directed by the Court; receiving and reporting the Requests  
2 for Exclusion and Notices of Objection submitted by Class Members; providing a declaration(s) as  
3 necessary in support of preliminary and/or final approval of this Settlement; development and  
4 maintenance of a Settlement website to post key documents regarding the Settlement and Final  
5 Judgment, and other tasks as the Parties mutually agree or the Court orders the Settlement  
6 Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of  
7 the performance of all Settlement Administrator responsibilities. Any legally-mandated tax  
8 reports, tax forms, tax filings or other tax documents required by administration of this Agreement  
9 shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such  
10 preparation shall be a cost of administration of the Settlement. The Settlement Administrator shall  
11 be paid Settlement Administration Costs no later than fourteen (14) calendar days after the  
12 Settlement is fully funded.

13           2.29 *Final Approval Hearing.* At a reasonable time following the Response  
14 Deadline, the Court shall hold the Final Approval Hearing, where objections, if any, may be heard,  
15 and the Court shall determine amounts properly payable for (i) Class Counsel Fees and Costs, (ii)  
16 Class Representative Service Awards, (iii) Individual Settlement Payments, (iv) the LWDA  
17 PAGA Allocation, and (v) Settlement Administration Costs.

18           2.30 *Entry of Final Judgment.* If the Court approves this Settlement at the Final  
19 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the  
20 Settlement has been fully funded, with the Court retaining jurisdiction over the Parties to enforce  
21 the terms of the judgment. Notice of entry of Final Judgment will be provided on the Settlement  
22 website to be created and maintained by the Settlement Administrator, which the Parties agree will  
23 satisfy due process.

24           2.31 *No Effect on Employee Benefits.* Amounts paid to Plaintiffs or other  
25 Settlement Class Members pursuant to this Agreement will not count as earnings or compensation  
26 for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendants.

27           2.32 *Nullification of Settlement Agreement.* In the event: (i) the Court does not  
28 enter the Preliminary Approval Order substantially in the form specified herein; (ii) the Court does

1 not grant final approval of the Settlement as provided herein; (iii) the Court does not enter a Final  
2 Judgment as provided herein; or (iv) the Settlement does not become final for any other reason,  
3 this Settlement Agreement shall be null and void and any order or judgment entered by the Court  
4 in furtherance of this Settlement shall be treated as void from the beginning. In such a case, the  
5 Parties and any funds to be awarded under this Settlement shall be returned to their respective  
6 statuses as of the date and time immediately prior to the execution of this Agreement, and the  
7 Parties shall proceed in all respects as if this Agreement had not been executed, except that any  
8 fees already incurred by the Settlement Administrator shall be paid by the Parties in equal shares.  
9 In the event an appeal is filed from the Court's Final Judgment, or any other appellate review is  
10 sought, administration of the Settlement shall be stayed pending final resolution of the appeal or  
11 other appellate review, but any fees incurred by the Settlement Administrator prior to it being  
12 notified of the filing of an appeal from the Court's Final Judgment, or any other appellate review,  
13 shall be paid to the Settlement Administrator by Defendants within thirty (30) days of said  
14 notification.

15           2.33 *No Admission By the Parties.* Defendants deny any and all claims alleged in  
16 this Action and deny all wrongdoing whatsoever. This Agreement is not a concession or  
17 admission, and shall not be used against Defendants as an admission or indication with respect to  
18 any claim of any fault, concession or omission by Defendants.

19           2.34 *Dispute Resolution.* Except as otherwise set forth herein, all disputes  
20 concerning the interpretation, calculation or payment of settlement claims, or other disputes  
21 regarding compliance with this Agreement shall be resolved as follows:

22           a. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any  
23 Settlement Class Members, or the Defendants at any time believe that another Party has breached  
24 or acted contrary to the Agreement, that Party shall notify the other Parties in writing of the  
25 alleged violation.

26           b. Upon receiving notice of the alleged violation or dispute, the  
27 responding party shall have ten (10) days to correct the alleged violation and/or respond to the  
28 initiating party with the reasons why the Party disputes all or part of the allegation.

1 c. If the response does not address the alleged violation to the initiating  
2 party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) days to resolve their  
3 differences.

4 d. If Class Counsel and Defendants are unable to resolve their  
5 differences after twenty (20) days, either Party may file an appropriate motion for enforcement  
6 with the Court.

7 2.35 *Exhibits and Headings.* The terms of this Agreement include the terms set  
8 forth in any attached exhibit, which are incorporated by this reference as though fully set forth  
9 herein. Any exhibits to this Agreement are an integral part of the Settlement. The descriptive  
10 headings of any paragraphs or sections of this Agreement are inserted for convenience of reference  
11 only and do not constitute a part of this Agreement.

12 2.36 *Interim Stay of Proceedings.* The Parties agree to make all efforts to obtain  
13 a stay of all proceedings in the Action, except such proceedings necessary to implement and  
14 complete the Settlement such as the filing of a stipulation for leave to file a TAC adding a  
15 proposed FLSA claim for proposed release under the Settlement terms, in abeyance pending the  
16 Final Approval Hearing to be conducted by the Court.

17 2.37 *Amendment or Modification.* This Agreement may be amended or modified  
18 only by a written instrument signed by counsel for all Parties or their successors-in-interest.

19 2.38 *Entire Agreement.* This Agreement and any attached exhibits constitute the  
20 entire Agreement among the Parties, and no oral or written representations, warranties or  
21 inducements have been made to any Party concerning this Agreement or its exhibits other than the  
22 representations, warranties, and covenants contained and memorialized in the Agreement and its  
23 exhibits.

24 2.39 *Authorization to Enter into Settlement Agreement.* Counsel for all Parties  
25 warrant and represent they are expressly authorized by the Parties whom they represent to  
26 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by  
27 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other  
28 documents required to effectuate the terms of this Agreement. The Parties and their counsel will

1 cooperate with each other and use their best efforts to effect the implementation of the Settlement.  
2 In the event the Parties are unable to reach agreement on the form or content of any document  
3 needed to implement the Settlement, or on any supplemental provisions that may become  
4 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the  
5 Court to resolve such disagreement. The persons signing this Agreement on behalf of Defendants  
6 represent and warrant that they are authorized to sign this Agreement on behalf of Defendants.  
7 Plaintiffs represent and warrant that they are authorized to sign this Agreement and that they have  
8 not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

9           2.40 *Binding on Successors and Assigns.* This Agreement shall be binding upon,  
10 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

11           2.41 *California Law Governs.* All terms of this Agreement and the exhibits  
12 hereto shall be governed by and interpreted according to the laws of the State of California.

13           2.42 *This Settlement is Fair, Adequate, and Reasonable.* The Parties believe this  
14 Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this  
15 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,  
16 present and potential.

17           2.43 *Jurisdiction of the Court.* The Parties agree that the Court shall retain  
18 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this  
19 Agreement and all orders and judgments entered in connection therewith, and the Parties and their  
20 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing,  
21 and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in  
22 connection therewith.

23           2.44 *Invalidity of Any Provision.* Before declaring any provision of this  
24 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest  
25 extent possible consistent with applicable precedents, so as to find all provisions of this  
26 Agreement valid and enforceable.

27           2.45 *Waiver of Certain Appeals.* The Parties agree to waive appeals and to  
28 stipulate to class certification for purposes of this Settlement only.

1                   2.46 *Cooperation.* The Parties agree to cooperate fully with one another to  
2 accomplish and implement the terms of this Settlement. Such cooperation shall include, but not be  
3 limited to, execution of such other documents and the taking of such other action as may be  
4 reasonably necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use  
5 their best efforts, including all efforts contemplated by this Settlement and any other efforts that  
6 may become necessary by Court order, or otherwise, to effectuate this Settlement and the terms set  
7 forth herein.

8                   a.        Extension of Five Year Trial Deadline: To this end, the Parties  
9 hereby stipulate to extend the five year statutory deadline to bring the case to trial under California  
10 Code of Civil Procedure section 583.310 by one year. With the one year extension, the deadline to  
11 bring the case to trial is March 11, 2020.

12                   2.47 *Confidentiality of Settlement.* The Parties and their respective counsel (and  
13 all employees thereof) expressly agree that they will maintain in strict confidence the fact that this  
14 Action has settled, and the terms of the Settlement, until such time as Preliminary Approval is  
15 granted by the Court (if granted). The Parties recognize that aspects of this Settlement will be on  
16 file with the Court. However, except for information or documents disclosed to the Court as part  
17 of preliminary approval of the Settlement, the Parties will not disclose or initiate the disclosure of  
18 this Settlement or its terms until such time as Preliminary Approval is granted.

19                   2.48 *Notices.* Unless otherwise specifically provided, all notices, demands or  
20 other communications in connection with this Stipulation shall be: (1) in writing; (2) deemed  
21 given on the third business day after mailing; and (3) sent via United States registered or certified  
22 mail, return receipt requested, addressed as follows:

23                   **To Plaintiffs:**

24                   Raymond P. Boucher  
25                   Shehnaz M. Bhujwala  
26                   Neil M. Larsen  
27                   Boucher, LLP  
28                   21600 Oxnard Street, Suite 600  
                    Woodland Hills, California 91367

1 Sahag Majarian, II  
2 Law Offices of Sahag Majarian, II  
3 18250 Ventura Blvd.  
4 Tarzana, CA 91356

4 **To Defendants:**

5 John L. Barber, Esq.  
6 Alison M. Miceli, Esq.  
7 Lewis Brisbois Bisgaard & Smith LLP  
8 701 B Street, Suite 1900  
9 San Diego, CA 92101  
10 *Attorneys for Southwind Foods, LLC*

11 Rob D. Cucher, State Bar Number 219726  
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14 Beverly Hills, California 90212  
15 *Attorneys for Defendant and Cross-Defendant Staffpoint, LLC*

16 Lawrence Hoodack, State Bar Number 97629  
17 LAW OFFICES OF LAWRENCE HOODACK  
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19 Anaheim, California 92809  
20 Telephone: 714-634-2030  
21 *Attorney for Defendant and Cross-Defendant Alliance Professional Business*  
22 *Solutions, Inc.*

23 Carl John Pentis, State Bar Number 116453  
24 CARL JOHN PENTIS, ATTORNEY AT LAW  
25 500 N State College Blvd, Suite 1200  
26 Orange, California 92868  
27 *Attorney for Cross-Defendant Ashwin Syal*

19 2.49 *Execution by Settlement Class Members.* It is agreed that it is impossible or  
20 impractical to have each Class Member execute this Settlement Agreement. The Notice of  
21 Settlement will advise all Settlement Class Members of the binding nature of the releases and such  
22 shall have the same force and effect as if each Settlement Class Member executed this Stipulation.

23 2.50 *Execution by Plaintiffs.* Plaintiffs, by signing this Stipulation, are each  
24 bound by the terms herein and further agree not to request to be excluded from the Settlement.  
25 Any such request for exclusion shall therefore be void and of no force or effect.

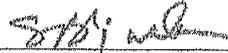
26 2.51 The Parties hereto agree that the terms and conditions of this Amended  
27 Stipulation are the result of lengthy, intensive, arm's-length negotiations between the Parties and  
28 that this Stipulation shall not be construed in favor of or against any of the Parties by reason of

1 their participation in the drafting of this Stipulation.

2           2.52 This Stipulation shall become effective upon its execution by all of the  
3 undersigned. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel and Cross-  
4 Defendants' Counsel may execute this Stipulation in counterparts, and the execution of  
5 counterparts shall have the same force and effect as if each had signed the same instrument.  
6 Copies of the executed Agreement shall be effective for all purposes as though the signatures  
7 contained therein were original signatures.

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10 DATED: 5-16-18 By:   
11 CLAUDIA GRANCIANO  
12 Plaintiff

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14 DATED: \_\_\_\_\_ By: \_\_\_\_\_  
15 RICARDO CONTRERAS  
16 Plaintiff

17 DATED: May 16, 2018 BOUCHER LLP  
18  
19 By:   
20 RAYMOND P. BOUCHER  
21 SHEHNAZ M. BHUJWALA  
22 NEIL M. LARSEN  
23 Attorneys for Plaintiffs and the Putative Class

24 DATED: \_\_\_\_\_ LAW OFFICES OF SAHAG MAJARIAN II  
25  
26 By: \_\_\_\_\_  
27 SAHAG MAJARIAN II  
28 Attorneys for Plaintiffs and the Putative Class

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10 DATED: 5/23/18

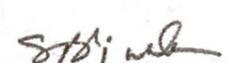
By: \_\_\_\_\_  
CLAUDIA GRANCIANO  
Plaintiff

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13 DATED: 5/23/18

By:  \_\_\_\_\_  
RICARDO CONTRERAS  
Plaintiff

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17 DATED: May 16, 2018

BOUCHER LLP

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19 By:  \_\_\_\_\_  
RAYMOND P. BOUCHER  
SHEHNAZ M. BHUJWALA  
NEIL M. LARSEN

Attorneys for Plaintiffs and the Putative Class

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24 DATED: \_\_\_\_\_

LAW OFFICES OF SAHAG MAJARIAN II

25  
26 By: \_\_\_\_\_  
SAHAG MAJARIAN II

Attorneys for Plaintiffs and the Putative Class

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By: \_\_\_\_\_  
CLAUDIA GRANCIANO  
Plaintiff

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14 DATED: \_\_\_\_\_

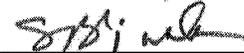
By: \_\_\_\_\_  
RICARDO CONTRERAS  
Plaintiff

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DATED: May 16, 2018

BOUCHER LLP

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By:   
RAYMOND P. BOUCHER  
SHEHNAZ M. BHUJWALA  
NEIL M. LARSEN

Attorneys for Plaintiffs and the Putative Class

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24 DATED: 5/18/18 \_\_\_\_\_

LAW OFFICES OF SAHAG MAJARIAN II

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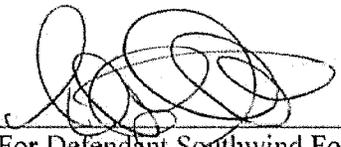
By:   
SAHAG MAJARIAN II

Attorneys for Plaintiffs and the Putative Class

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DATED: 5-30-18

By:   
For Defendant Southwind Foods, LLC

DATED: 05/30/18

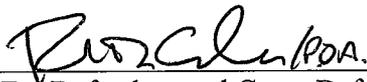
LEWIS BRISBOIS BISGAARD & SMITH LLP

By:   
JOHN L. BARBER  
ALISON M. MICELI

Attorneys for Defendant and Cross-Complainant  
Southwind Foods, LLC

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DATED: May 29, 2018

By:   
For Defendant and Cross-Defendant  
Staffpoint, LLC

DATED: May 29, 2018

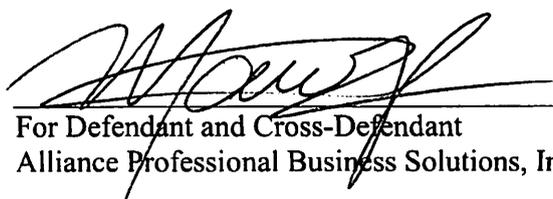
LAW OFFICES OF ROB D. CUCHER

By:   
ROB D. CUCHER

Attorneys for Defendant and Cross-Defendant  
Staffpoint, LLC

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DATED: 5/31/18

By:   
For Defendant and Cross-Defendant  
Alliance Professional Business Solutions, Inc.

DATED: \_\_\_\_\_

LAW OFFICES OF LAWRENCE HOODACK

By: \_\_\_\_\_  
LAWRENCE HOODACK

Attorneys for Defendant and Cross-Defendant  
Alliance Professional Business Solutions, Inc.

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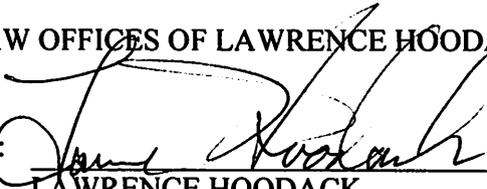
DATED: \_\_\_\_\_

By: \_\_\_\_\_

For Defendant and Cross-Defendant  
Alliance Professional Business Solutions, Inc.

DATED: 5/31/18

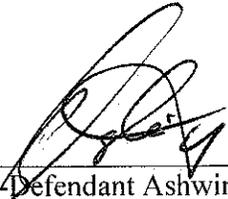
LAW OFFICES OF LAWRENCE HOODACK

By:   
LAWRENCE HOODACK

Attorneys for Defendant and Cross-Defendant  
Alliance Professional Business Solutions, Inc.

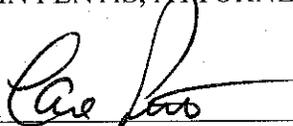
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DATED: 5/30/18

By:   
Cross-Defendant Ashwin Syal

DATED: 5/30/18

CARL JOHN PENTIS, ATTORNEY AT LAW

By:   
CARL JOHN PENTIS

Attorneys for Cross-Defendant Ashwin Syal

**EXHIBIT 2(A)**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Claudia Granciano, et al. v. Southwind Foods, LLC, et al.*  
Superior Court of the State of California, County of Los Angeles  
Case No. BC538900

**THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.**  
**PLEASE READ THIS NOTICE CAREFULLY.**

*A court authorized this Notice. This is not a solicitation.  
This is not a lawsuit against you, and you are not being sued.  
However, your legal rights are affected whether you act or not.*

**WHAT IS IN THIS NOTICE**

1. Why should you read this Notice? ..... Page 1  
2. What is the Lawsuit about?..... Page 2  
3. The proposed Settlement.....Page 3  
4. What do I have to do in response to this Notice? ..... Page 6  
5. How will my rights be affected?..... Page 7  
6. Who are the attorneys representing the Parties?..... Page 9  
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**1. Why should you read this Notice?**

You received this Notice because your employment records with Southwind Foods, LLC (“Southwind”), Staffpoint, LLC (“Staffpoint”), and/or Alliance Professional Business Solutions, Inc. (“Alliance”) (collectively, “Defendants”) indicate that you are eligible to receive a settlement payment as a “Class Member” under the proposed Settlement in the lawsuit entitled *Granciano, et al. v. Southwind Foods, LLC, et al.*, which is pending before the Superior Court of the State of California, County of Los Angeles, Case No. BC538900 (the “Lawsuit”).

Because your rights may be affected by the proposed Settlement whether you act or not, it is important that you carefully read this Notice.

The Court in this Lawsuit ordered that this Notice be mailed to all Class Members to notify you of the proposed Settlement. This Notice does not express any opinion by the Court regarding the merits of any claims or defenses asserted by any party in the Lawsuit. Instead, this Notice was sent to you to inform you that this Lawsuit is pending and of the terms of the proposed Settlement, so that you may make appropriate decisions. In the event that this Notice conflicts with the Settlement Agreement, the terms of the Settlement Agreement shall govern.

The proposed Settlement will apply to all persons who meet the definition of the following Class:

**All current and former non-exempt employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc. who worked in any of Southwind Foods, LLC’s facilities located in California at any time from March 11, 2010 through May 1, 2016 (the “Class Period”).**

According to Defendants’ employment records, you are a member of the Class (“Class Member”) because you are or were employed by one or more of the Defendants as a non-exempt employee who worked in one or more of Southwind Foods, LLC’s facilities located in California sometime between March 11, 2010 and May 1, 2016. Again, as a Class Member, you are eligible to receive a settlement payment under the proposed Settlement.

Plaintiffs Claudia Granciano and Ricardo Contreras (“Plaintiffs”) and Defendants, together with Cross-Defendants including Cross-Defendant Ashwin Syal, have presented this Settlement to the Court for its review and approval. On **[Date of Preliminary Approval Order]**, the Court ordered that this Notice be provided to Class Members.

The Court will decide whether to provide final approval to the Settlement at a hearing currently scheduled for \_\_\_\_\_ at \_\_\_ a.m/p.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman (the “Final Approval Hearing”). The Final Approval Hearing may be continued to another date. If that happens, the Settlement Administrator will post information about the new date and time on the Settlement website at [*settlement website address*]. Notice of final approval and judgment will also be posted to the Settlement website at [*settlement website address*].

## **2. What is the Lawsuit about?**

The Lawsuit is a putative class and representative action, meaning a lawsuit where the claims and rights of many people are decided in a single court proceeding. In this case, there are two named plaintiffs, Ms. Claudia Granciano and Mr. Ricardo Contreras (“Plaintiffs”). Plaintiff Granciano, individually and on behalf of all other similarly situated employees, filed a wage and hour class action lawsuit against Southwind Foods, LLC and Staffpoint, LLC, on March 11, 2014 in the Superior Court of California, County of Los Angeles. On May 21, 2015, Plaintiff Granciano filed a First Amended Complaint to add Alliance Professional Business Solutions, Inc. as an additional Defendant. On July 8, 2015, Plaintiff Granciano filed a Second Amended Complaint to add Mr. Contreras as an additional Plaintiff and to seek relief pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) (Cal. Lab. Code §§ 2698, *et seq.*).

The Lawsuit alleges that Defendants (1) failed to pay wages for all hours worked (Cal. Lab. Code § 1194), (2) failed to pay overtime compensation (Cal. Lab. Code § 510), (3) failed to provide meal periods (Cal. Lab. Code §§ 226.7 and 512), (4) failed to furnish complete and

accurate wage statements (Cal. Lab. Code § 226), (5) failed to timely pay wages upon termination or resignation (Cal. Lab. Code §§ 201 and 202), (6) violated the PAGA (Cal. Lab. Code §§ 2698, *et seq.*), and (7) violated California’s Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*).

As part of the Preliminary Approval process, Plaintiffs shall amend the operative Complaint to add a cause of action for unpaid wages pursuant to the Fair Labor Standards Act (“FLSA”) and file it with the Court. Defendants will stipulate for leave to file the Third Amended Complaint. In the event that the Settlement does not become final for any reason, then any Order permitting the filing of the Third Amended Complaint shall be treated by the Parties as void *ab initio* and the Second Amended Complaint will become Plaintiffs’ operative Complaint again.

Defendants deny these allegations and contend they complied with the law. Despite the Parties’ respective positions and arguments, the Parties recognize the uncertainty and risks of further litigation of the Lawsuit, which would be protracted and expensive for the Parties. Accordingly, the Parties have agreed to settle the Lawsuit, subject to Court approval, upon the terms set forth in the Amended Stipulation Regarding Class Action Settlement and Release (the “Stipulation” or “Settlement” or “Agreement” or “Settlement Agreement”). The settlement is a compromise. Defendants, by settling the Lawsuit, do not admit, concede or imply any fault, wrongdoing or liability. Defendants will object to any claim if for any reason the Court does not approve the Settlement.

### **3. The proposed Settlement.**

In exchange for the release of claims and cross-claims against Defendants and final judgment in the Lawsuit, Defendants agreed to pay up to Seven Hundred Fifty Thousand Dollars (\$750,000) (“Gross Settlement Fund”), exclusive of Defendants’ employer-side payroll tax obligations that will be paid separately by Southwind Foods, LLC. The contributions shall be made as follows: \$623,500 by Southwind Foods, LLC, \$50,000 by Travelers Casualty and Surety Company of America on behalf of Southwind Foods, LLC, \$50,000 by Alliance Professional Business Solutions, Inc., \$25,000 by Ashwin Syal, and \$1,500 by Staffpoint, LLC.

After payment of Class Representative Service Awards to Plaintiffs, a PAGA payment to the California Labor and Workforce Development Agency (“LWDA”), Settlement Administration Costs, and Class Counsel attorneys’ fees and costs are deducted from the Gross Settlement Fund, remaining funds will be distributed to Class Members who do not submit a valid and timely Request for Exclusion from the Settlement (“Settlement Class Members”), as further explained below:

- A. **Plaintiffs’ Class Representative Service Awards.** Class Counsel will ask the Court to authorize Service Awards of up to Ten Thousand Dollars (\$10,000) each to Plaintiffs for their service as Class Representatives. Plaintiffs will also be entitled to receive Individual Settlement Payments from the Net Settlement Fund as described below.

- B. **PAGA Payment**. Ten Thousand Dollars (\$10,000) will be paid to settle claims alleged under PAGA. Of that amount, Seven Thousand Five Hundred Dollars (\$7,500), will be paid to the LWDA for its 75% share of the PAGA payment, and Two Thousand Five Hundred Dollars (\$2,500) will be distributed equally to Settlement Class Members, including Plaintiffs.
- C. **Settlement Administration Costs**. The Settlement Administrator, Simpluris, Inc., will be paid for administering the proposed Settlement, which includes such tasks such as mailing and tracking this Notice, establishing and maintaining the Settlement website, calculating Class Member settlement payments, receiving and reviewing Requests for Exclusion and Objections, mailing checks and tax forms, and reporting to the Parties and the Court. Settlement Administration Costs are capped and will not exceed Fourteen Thousand Five Hundred Dollars (\$14,500).
- D. **Class Counsel Attorneys' Fees and Costs**. You do not need to pay any portion of either Plaintiffs' or Defendants' attorneys' fees and costs. Plaintiffs will ask the Court to award 33.33% of the Gross Settlement Fund to Class Counsel for their attorneys' fees for work performed in prosecuting this class and representative action, which is Two Hundred Forty-Nine Thousand Nine Hundred Seventy-Five Dollars (\$249,975), and for a Cost Award for actual expenses and costs incurred by Class Counsel in prosecuting this action not to exceed Twenty-Six Thousand Dollars (\$26,000).
- E. **Net Settlement Fund**. The amounts described in Subparts A – D, above, will be paid from the Gross Settlement Fund, and any requested amounts not approved by the Court will revert to the Net Settlement Fund for distribution to "Settlement Class Members" who do not validly and timely request exclusion from the Settlement. Subject to Court approval, distribution to Settlement Class Members will be as follows:

**Individual Settlement Payments to Settlement Class Members.** The Settlement Administrator will determine the portion of the Net Settlement Fund and portion of the PAGA payment to be paid to each Settlement Class Member. Individual Settlement Payments will be calculated as follows:

By dividing the number of Compensable Work Weeks for each Class Member during the Class Period by the total number of Compensable Work Weeks for all Class Members during the Class Period ("Payment Ratio"). A work week is defined as a fixed and regularly recurring period seven consecutive 24-hour periods totaling 168 hours. Here, the term "Work Weeks" simply means the number of such work weeks in which you worked for Defendants at facilities in California during the Class Period, according to Defendants' payroll records. Each Settlement Class Member who does not validly and timely submit a Request for Exclusion will receive a Settlement Payment that includes a sum consisting of the Payment Ratio multiplied by the Net Settlement Fund, minus all applicable taxes except employer-side payroll taxes to be paid by

Southwind Foods, LLC. If any Class Member validly requests exclusion from the Settlement, the portion of the Net Settlement Fund that would have been paid to the excluded Class Members(s) will be distributed to all Settlement Class Members on an equal, *pro rata* basis as part of their Individual Settlement Payment, after deduction of applicable taxes or other required withholdings.

**According to Defendants' payroll records, you worked for one or more of the Defendants as a non-exempt employee at one or more of Southwind Foods, LLC's facilities in California sometime between March 11, 2010 and May 1, 2016. The number of your Work Weeks during the Class Period is \_\_\_\_\_.**

If you dispute the information provided regarding the number of Compensable Work Weeks you worked for Defendants in California during the Class Period, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

**Your estimated Individual Settlement Payment, if you decide to participate in the Settlement, and do not submit a valid and timely Request for Exclusion, is \$ \_\_\_\_\_, less all applicable taxes.** This estimated amount may increase or decrease depending on the Court's Orders and the number of Class Members who timely submit valid Requests for Exclusion from the Settlement.

Individual Settlement Payments will be allocated as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent (20%) as wages. Each Class Member should seek his or her own personal tax advice prior to acting in response to this Notice.

**The check for your Individual Settlement Payment will be mailed by U.S. Mail to your last known mailing address within thirty (30) days after the Effective Date of the Settlement and will remain valid and negotiable for 180 days from the date of issuance. After that time, any unclaimed check will be sent to the California Department of Industrial Relations Unclaimed Wages Fund for your benefit.**

#### 4. What do I have to do in response to this Notice?

You do not need to submit a claim form or do anything else to participate in this Settlement and receive your share of the Net Settlement Fund. You also have a right to request to be excluded from the Settlement completely, and the right to object to the Settlement. The option you choose affects whether you receive an Individual Settlement Payment and whether you give up certain rights. The option you choose will in no way affect your employment with Defendants.

Your options are listed below:

- A. **Participate in the Settlement.** To participate in this Settlement and receive your Individual Settlement Payment, you do not need to do anything at this time.
- B. **Participate in the Settlement But Dispute Individual Settlement Payment Information.** If you dispute the information provided in Section 3, above, which will be used to calculate your Individual Settlement Payment, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. Please retain proof of mailing, fax or email correspondence with the Settlement Administrator, or call the Settlement Administrator to make sure your dispute was received.
- C. **Exclude yourself from the Settlement.** To exclude yourself from participating in the Settlement, you must sign and return a written Request for Exclusion to the Settlement Administrator either (1) by First Class or certified U.S. Mail postmarked no later than [**Response Deadline**], or (2) by facsimile to [**Fax number**] no later than [**Response Deadline**], or (3) submit a Request for Exclusion by email, [*settlement email address*], no later than [**Response Deadline**]. To be valid, a Request for Exclusion must: (1) contain the complete name, address, telephone number, and last four digits of the Social Security number of the Class Member requesting exclusion; (2) be signed and dated by the Class Member requesting exclusion; and (3) be postmarked, faxed or email stamped by the [**Response Deadline**] and returned to the Settlement Administrator at the specified address, fax telephone number or email address.

If you timely and validly request to be excluded from the Settlement, you will not receive an Individual Settlement Payment under the Settlement, you will not be bound by the Settlement, and you will not have any right to object to or appeal the Settlement.

Unless a Class Member timely requests to be excluded from the Settlement, the Class Member will be bound by the judgment upon final approval of the Settlement, including the releases described in this Notice.

D. **Object to the Settlement.** You can ask the Court to deny final approval of the Settlement by filing an objection. You cannot ask the Court to order a larger Settlement or to change the terms of the Settlement. The Court can only approve or deny the proposed Settlement. If the Court denies final approval of the Settlement, no Individual Settlement Payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

If you wish to object to the proposed Settlement (or any portion of it), you must mail, fax or email a written statement of objection (“Notice of Objection”) to the Settlement Administrator by the **[Response Deadline]**.

To be valid, a Notice of Objection must be submitted to the Settlement Administrator on or before **[Response Deadline]**, must be signed by the Class Member, and must contain: (1) the full name, address, and telephone number of the Class Member objecting to the Settlement; (2) the dates of employment of the Class Member; (3) the job title(s) and job location(s) of the Class Member; (4) the last four digits of the Class Member’s Social Security number; (5) the basis for the objection; and (6) whether the Settlement Class Member intends to appear at the Final Approval Hearing, and provide any legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court. The date of the postmark on the return envelope, or fax date or email date shall be deemed the exclusive means for determining whether a Notice of Objection was timely submitted. Class Members who fail to make objections in the manner specified above shall be deemed to have waived any written objections to the Settlement.

You do not need to appear at the Final Approval Hearing in order to have your objection considered. The Final Approval Hearing is currently scheduled for \_\_\_\_\_ at \_\_\_ a.m/p.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman. You may appear at the Final Approval Hearing either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

You may both object to the Settlement and participate in it. Filing an objection will not exclude you from the Settlement. If you wish to be excluded from the Settlement, then you must follow the procedure above in Section C.

## **5. How will my rights be affected?**

If the proposed Settlement is approved by the Court, Plaintiffs and every member of the Class who does not submit a valid and timely Request for Exclusion to the Settlement Administrator

under the procedures set forth above will release Defendants<sup>1</sup> from the “Released Claims” as described in the Settlement Agreement, which include any and all claims asserted in the Action against the Released Parties, or that could have been asserted against the Released Parties based upon the facts alleged in the Third Amended Complaint filed with the Court, by Plaintiffs or any Settlement Class Member, under the California Labor Code, California Wage Orders, California Unfair Competition Law, PAGA, and FLSA, from March 11, 2010 through May 1, 2016.

The Released Claims include, but are not limited to, claims for: (1) Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194) due to Defendants’ alleged time-rounding policies resulting in alleged underpayment of wages for regular and/or overtime hours worked by Plaintiff Granciano and Class Members; (2) Failure to Pay Overtime Compensation (Cal. Lab. Code § 510) due to Defendants’ alleged rounding policies applicable to Plaintiff Granciano and Class Members and auto-deductions of 30 minutes of total time worked and alleged attributions of that time to meal periods without pay; (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7 and 512) for Defendants’ alleged failure to provide timely requisite meal periods of not less than 30 minutes to Plaintiff Granciano and Class Members who worked over five hours per shift and who worked over ten hours per shift, or to pay premium payments in lieu thereof; (4) Failure to Timely Pay Wages Upon Termination or Resignation (Cal. Lab. Code §§ 201 and 202) to Plaintiff Granciano and Class Members; (5) Failure to Furnish Accurate Wage Statements (Cal. Lab. Code § 226(a)) to Plaintiffs and Class Members (from March 11, 2013 through May 1, 2016); (6) Unlawful, Deceptive, and/or Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) for the alleged violations set forth herein; and (7) PAGA (Cal. Lab. Code §§ 2698, *et seq.*) for the alleged violations set forth herein.

The Released Claims also include all claims for interest and/or penalties of any kind or nature arising out of or relating to the Released Claims and further extends to and includes claims for damages, civil penalties, restitution, injunctive relief, declaratory relief, and any other form of relief or remedy.

The Released Claims also include all claims Plaintiffs and Settlement Class Members may have against the Released Parties relating to (i) the payment and allocation of attorneys’ fees and costs to Class Counsel pursuant to this Agreement, and (ii) the payment of the Class Representative Service Awards pursuant to this Agreement. It is the intent of the Parties that the judgment entered by the Court upon final approval of the Settlement shall have *res judicata* effect and be final and binding upon Plaintiffs and all Settlement Class Members regarding all of the Released Claims.

**FLSA Release: Additionally, any Settlement Class Member who timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs, will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in the Third Amended Complaint under 29 U.S.C. §§ 201, *et seq.*, and waived and released any claims**

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<sup>1</sup> The term “Defendants” include each and all of the Defendants that are Parties to the Settlement Agreement and their respective past and present parents, subsidiaries, affiliated companies and corporations, and each and all of their respective past and present directors, officers, and owners.

such Settlement Class Members may have under the FLSA only as related to the Released Claims.

**Released Claims and FLSA Release Do Not Include Civil Code Section 1542 General Release for Settlement Class Members:** For the sake of clarity, the Parties agree that the Released Claims, including the FLSA Release, consist of only those claims that meet the definition of Released Claims. **In other words, the releases contemplated by Settlement Class Members are not considered blanket waivers of California Civil Code section 1542 for all claims, potential or actual, known or unknown, for violations of California’s Labor Code, Wage Orders or FLSA by current and former employees of Defendants.**

As of the Effective Date, the Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs, successors, assigns, and estates, release the Released Parties from the Released Claims during the Class Period. Plaintiffs and Settlement Class Members agree not to sue or otherwise make a claim against any of the Released Parties for the Released Claims.

**6. Who are the attorneys representing the Parties?**

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**7. How do I obtain additional information?**

This Notice only summarizes the Lawsuit, the Settlement, and related matters. For more information, you may inspect the relevant Court files on the Settlement website at [*settlement website address*]. You may also contact the Settlement Administrator and ask about this Settlement:

SOUTHWIND FOODS, LLC Settlement Administrator  
c/o Simpluris, Inc.  
[ADDRESS]  
[Settlement Website Address]  
[Toll-Free Number]

**PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT. PLEASE DO NOT CONTACT DEFENDANTS' CORPORATE OFFICES, MANAGERS OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT.**

**Dated:** \_\_\_\_\_