

# **EXHIBIT 1**

## **Fully Executed Class-Collective Settlement Agreement and Release**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

JACINTO GOMEZ OVANDO and  
MARIA DEL CARMEN PERALTA  
BAEZA, on behalf of themselves and all  
others similarly situated,

Plaintiff,

v.

MOUNTAIRE FARMS, INC. and  
MOUNTAIRE FARMS OF NORTH  
CAROLINA, CORP.,

Defendants.

Civil Action No. 7:23-cv-00004-M-RJ

**SETTLEMENT AGREEMENT OF CLASS AND COLLECTIVE ACTION  
AND RELEASE OF CLAIMS**

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## SETTLEMENT AGREEMENT OF CLASS AND COLLECTIVE ACTION AND RELEASE OF CLAIMS

This Settlement Agreement of Class and Collective Action and Release of Claims is entered into by Plaintiffs, Jacinto Gomez Ovando and Maria Del Carmen Peralta Baeza, individually and as representatives of the Rule 23 Settlement Class and Participating FLSA Collective Members, as defined below, and Defendants, Mountaire Farms Inc. and Mountaire Farms of North Carolina Corp. This Agreement is subject to approval by the United States District Court for the Eastern District of North Carolina and is made for the sole purpose of consummating the settlement of this Action on a collective- and class-wide basis subject to the following terms and conditions. As detailed below, in the event the Court does not enter an order granting final approval of the Settlement in substantially the same form and substance set forth below, the Court's order granting final approval of the Settlement is appealed and reversed, or the conditions precedent are not met for any reason, this Settlement is void and of no force whatsoever.

### I. DEFINITIONS

**A. Action.** "Action" shall mean the civil action in Court, styled *Jacinto Gomez Ovando, et al., v. Mountaire Farms, Inc., et al.*, Case No. 7:23-cv-00004-M-RJ.

**B. Amended Complaint.** "Amended Complaint" shall mean the First Amended Collective and Class Action Complaint filed in the Court on May 5, 2023 in this Action.

**C. CAFA Notice.** "CAFA Notice" refers to the notice to be sent by

Defendants to appropriate federal and state officials pursuant to the requirements of the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715(b).

**D. Complaint.** “Complaint” shall mean the Collective and Class Action Complaint filed in the Court on January 10, 2023 in this Action.

**E. Claimants.** “Claimants” shall mean any Eligible Settlement Members who elect to participate in the Settlement by timely submission of a Claim Form, in addition to Named Plaintiffs and individuals who submitted consents to join this Action prior to execution of this Settlement Agreement.

**F. Claim Form:** “Claim Form” shall mean a simple written form to be mailed to all Eligible Settlement Members following the Court’s preliminary certification of the Rule 23 class, which must be timely completed and returned to the Settlement Administrator pursuant to the terms below in order to become a Claimant and thus receive an Individual Settlement Payment. The Claim Form shall also state that the individual agrees to participate as a party plaintiff in the Fair Labor Standards Act (“FLSA”) claims brought in the Action pursuant to 29 U.S.C. § 216(b) and agrees to be bound by the release of Released FLSA Claims described in Article VI, Section C (Release of Claims – Additional Claims Released by Claimants). A copy of the simple Claim Form is attached as Exhibit A.

**G. Claim Period.** “Claim Period” shall mean the period of seventy-five (75) calendar days following the initial mailing, texting, and/or emailing (to the extent that Defendants have cell phone and personal email addresses for those individuals) of the Notice, during which Rule 23 Settlement Class Members can request exclusion from the Settlement or object to the Settlement of the Released Claims, and Putative FLSA Collective Members can opt-in to the FLSA claims in this Action and submit a Claim Form to the Settlement Administrator by first-class U.S. mail.

**H. Class Counsel.** “Class Counsel” means the Law Offices of Gilda A. Hernandez, PLLC following the Court’s ruling and granting of preliminary approval of settlement and appointment of class counsel pursuant to Fed. R. Civ. P. 23(g)(1).

**I. Costs of Administration.** “Costs of Administration” shall mean and include all reasonable fees, costs, and expenses charged by the Settlement Administrator in connection with the Settlement Administrator’s work under this Settlement Agreement, including, but not limited to, any costs associated with Notice, processing Claims Forms, and issuing payments pursuant to the terms of this Settlement Agreement and other duties set forth in Article V (Settlement

Administrator and Notice Process).

**J. Court.** “Court” shall mean the United States District Court for the Eastern District of North Carolina.

**K. Defendants.** “Defendants” shall mean Mountaire Farms Inc. and Mountaire Farms of North Carolina Corp.

**L. Defense Counsel.** “Defense Counsel” shall mean Littler Mendelson, P.C.

**M. Effective Date.** “Effective Date” shall be the date when all of the following events have occurred: (a) this Settlement Agreement has been executed by all Parties and by Plaintiffs’ Counsel and Defense Counsel; (b) the Court has given preliminary approval to the Settlement; (c) Notice has been sent to the Eligible Settlement Members providing them with an opportunity to submit a Claim Form or opt out of the Settlement; (d) the Final Approval Date occurred and the Court entered a final order and judgment certifying the Settlement Class, approving this Settlement Agreement, and dismissing the Action with prejudice; and (e) the latest of the following events: (i) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (ii) the dismissal of any appeal, writ, or other appellate proceeding opposing the Settlement with no right to pursue further remedies or relief; and (iii) the issuance of a final appellate order upholding the Court’s final order with no right to pursue further remedies or relief.

**N. Eligible Settlement Members.** “Eligible Settlement Members” shall mean all Rule 23 Settlement Class Members and all Putative FLSA Collective Members.

**O. Final Approval Date.** “Final Approval Date” shall mean the date on which the Court docket an order granting final approval of the Settlement and dismisses this Action with prejudice, and must be at least ninety (90) days after the mailing of the CAFA Notice.

**P. Final Approval Hearing.** “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to finally approve the Settlement explained herein.

**Q. Gross Settlement Amount.** “Gross Settlement Amount” means the total gross amount to be paid by Mountaire to settle the Released Claims and the Released FLSA Claims, along with Plaintiffs’ or Class Counsel’s Fees and

Expenses, the aggregate of the Individual Settlement Amounts to Claimants, Service Awards, Costs of Administration, up to a maximum of \$7,260,000.00. In no event shall any Defendant be required to pay any amount beyond the Gross Settlement Amount, except that Defendants will pay separately from the Gross Settlement Amount any employer-side payroll taxes associated with payment of the wage portions of any payment to a Claimant.

**R. Individual Putative Settlement Amounts.** “Individual Putative Settlement Amounts” shall mean the amount from the Net Settlement Amount allocated to each Eligible Settlement Member should they become a Claimant but is not actually due or owed to the Eligible Settlement Member absent them becoming a Claimant, in exchange for the release of their Released Claims and Released FLSA Claims, and the other promises and covenants made herein.

**S. Individual Settlement Payments.** “Individual Settlement Payments” shall mean the portion of the Net Settlement Amount distributed to Claimants.

**T. Litigation.** “Litigation” is synonymous with Action (defined above), and shall mean the civil action in Court, styled *Jacinto Gomez Ovando, et al., v. Mountaire Farms, Inc., et al.*, Case No. 7:23-cv-00004-M-RJ.

**U. Motion for Preliminary Approval.** “Motion for Preliminary Approval” means the motion for preliminary approval of this Settlement and its supporting papers that Named Plaintiffs will file with the Court.

**V. Mountaire.** “Mountaire” shall mean Mountaire Farms Inc. and Mountaire Farms of North Carolina Corp.

**W. Named Plaintiff Baeza.** “Named Plaintiff Baeza” shall mean Maria Del Carmen Peralta Baeza.

**X. Named Plaintiff Gomez.** “Named Plaintiff Gomez” shall mean Jacinto Gomez Ovando.

**Y. Named Plaintiffs.** “Named Plaintiffs” shall mean Jacinto Gomez Ovando and Maria Del Carmen Peralta Baeza.

**Z. Net Settlement Amount:** “Net Settlement Amount” means the remainder of the Gross Settlement Amount after deductions for Court-approved award of Attorneys’ Fees and Expenses, Service Awards, and the Costs of Administration, and is the portion of the Net Settlement Amount available for distribution to Eligible Settlement Members; however, only Eligible Settlement

Members who become Claimants will receive an Individual Settlement Payment.

**AA. Notice.** “Notice” shall mean the Notice to Eligible Settlement Members agreed upon by counsel for the Parties and approved by the Court, which is to be delivered by the Settlement Administrator via First-Class U.S. Mail, e-mail, and text message (to the extent that Defendants have cell phone and personal email addresses for those individuals) to Eligible Settlement Members and in their native language, to the extent Defendants have records identifying any Eligible Settlement Members who are non-English speaking. A copy of the Notice is attached as Exhibit B.

**BB. Participating FLSA Collective Members.** “Participating FLSA Collective Member” means a Putative FLSA Collective Member who timely submits a validly executed copy of the simple Claim Form to the Settlement Administrator or previously submitted a consent to participate as a party plaintiff, including the Named Plaintiffs.

**CC. Parties.** “Parties” shall mean Named Plaintiffs and Defendants.

**DD. Plaintiffs’ Counsel.** “Plaintiffs’ Counsel” shall mean the Law Offices of Gilda A. Hernandez, PLLC.

**EE. Plaintiffs’ or Class Counsel Fees and Expenses.** “Plaintiffs’ or Class Counsel Fees and Expenses” shall mean Plaintiffs’ Counsel’s attorneys’ fees, costs, and expenses approved by the Court, as set forth in Article IV, Section D (Settlement Consideration – Plaintiffs’ or Class Counsel Fees and Expenses).

**FF. Preliminary Approval Order.** “Preliminary Approval Order” means the order granting preliminary approval of the Settlement, preliminarily certifying the putative Rule 23 Class for purposes of Settlement, appointment of Plaintiffs’ Counsel as Class Counsel, approving the Settlement Administrator, and approving the Notice.

**GG. Putative FLSA Collective Member:** “Putative FLSA Collective Member” means any individual employed by Defendants at their North Carolina chicken processing facilities as non-exempt chicken processing employees at any time within the three years prior to the commencement of this Action through December 20, 2024.

**HH. Rule 23 Settlement Class Member.** “Rule 23 Settlement Class Member” means any individual employed by Defendants at their North Carolina chicken processing facilities as non-exempt chicken processing employees at any time within the three years prior to the commencement of this action through



December 20, 2024. The Parties expressly acknowledge and agree that such individuals (or if such person is incompetent or deceased, the person's legal guardian, executor heir, or successor-in-interest) retain the right to request exclusion from the Settlement during the Claim Period and, if they exercise this right, such individuals will not be bound by the Rule 23 settlement.

**II. Released Claims.** "Released Claims" shall mean any and all wage and hour claims and causes of action, whether known or unknown, at law or in equity, whether arising under common law or federal, state, and/or local law, statute, ordinance, regulation, or any other source of law, including the North Carolina Wage and Hour Act, N.C. Gen. Stat. § 95-25.1, *et seq.* (the "North Carolina Wage Act"), but not including the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, which Rule 23 Settlement Class Members and Putative FLSA Collective Members asserted in the Action, or could have asserted in the Action, against the Released Parties, including, but not limited to, claims arising out of, derived from, or related to the facts and circumstances alleged in the Complaint or Amended Complaint, and including all wage and hour related claims, demands, rights, liabilities, and/or causes of action of any nature and description whatsoever for wages, bonuses, commissions, overtime, vacation pay, severance pay, and any related damages, costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, equitable relief, or any other relief related to any alleged failure to pay all wages or other compensation owed, or properly record or credit hours worked. This shall specifically include any claims of alleged unjust and/or improper (1) failure to pay wages for all hours worked; (2) deductions from compensation and/or wages; (3) failure to pay minimum wages; (4) failure to calculate and/or pay overtime compensation; (5) failure to pay all monies owed for work performed in breach of express contract or labor agreement, implied contract, or assumpsit, or in violation of the doctrines of quantum meruit/unjust enrichment, fraud, negligent misrepresentation, equitable estoppel, promissory estoppel, or conversion; (6) failure to keep and maintain any records as required under applicable wage and hour laws; (7) failure to provide benefits or other amounts under any compensation or benefit plan, program, arrangement, or agreement based on any alleged failure to pay wages, including but not limited to minimum wages or overtime wages; and (8) retaliation for complaining about alleged violations of any wage and hour law. The releases in this paragraph include all federal, state, and local statutory claims and common law claims related to hours worked and unpaid wages, but it does not include claims based on the FLSA or any other claims that may not be waived as a matter of law.

**JJ. Released FLSA Claims.** "Released FLSA Claims" shall mean any and



all wage and hour claims and causes of action, whether known or unknown, at law or in equity, under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., which Rule 23 Settlement Class Members and Putative FLSA Collective Members asserted in the Action, or could have asserted in the Action, against the Released Parties, including, but not limited to, claims arising out of, derived from, or related to the facts and circumstances alleged in the Complaint or Amended Complaint, and including all wage and hour related claims, demands, rights, liabilities, and/or causes of action of any nature and description whatsoever for wages, bonuses, commissions, overtime, vacation pay, severance pay, and any related damages, costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, equitable relief, or any other relief related to any alleged failure to pay all wages or other compensation owed, or properly record or credit hours worked. This shall specifically include any claims under the FLSA for alleged unjust and/or improper (1) failure to pay wages for all hours worked; (2) deductions from compensation and/or wages; (3) failure to pay minimum wages; (4) failure to calculate and/or pay overtime compensation; (5) failure to pay all monies owed for work performed in breach of express contract or labor agreement, implied contract, or assumpsit, or in violation of the doctrines of quantum meruit/unjust enrichment, fraud, negligent misrepresentation, equitable estoppel, promissory estoppel, or conversion; (6) failure to keep and maintain any records as required under applicable wage and hour laws; (7) failure to provide benefits or other amounts under any compensation or benefit plan, program, arrangement, or agreement based on any alleged failure to pay wages, including but not limited to minimum wages or overtime wages; and (8) retaliation for complaining about alleged violations of any wage and hour law. The releases in this paragraph include all claims based on the FLSA but does not include any other claims that may not be waived as a matter of law.

**KK. Released Parties.** "Released Parties" shall mean: Defendants; and any present and former corporate parents, subsidiaries or affiliates of Defendants; Defendants' officers, directors, managers, and agents; and Defendants' insurers and attorneys.

**LL. Reversion Amount.** "Reversion Amount" shall be the amount associated with any checks or Individual Settlement Payments sent to Claimants that remain uncashed 180 days after mailing.

**MM. Rule 23 Settlement Class.** "Rule 23 Settlement Class" means all Rule 23 Settlement Class Members.

**NN. Service Awards.** "Service Awards" shall mean any additional monetary

payment provided to the Named Plaintiffs for their efforts on behalf of the Rule 23 Settlement Class and Putative FLSA Collective Members in this Action, as set forth in Article IV, Section C (Settlement Consideration – Named Plaintiffs’ Service Awards).

**OO. Settlement.** “Settlement” shall mean the Settlement between the Parties, which is memorialized in this Settlement Agreement.

**PP. Settlement Administrator.** “Settlement Administrator” shall be CPT Group, a qualified neutral, independent, third-party settlement administration firm selected by the Parties to effectuate the Settlement by issuing the Notice and Claim Form, collecting required Claim Forms, distributing settlement checks, and all other tasks specified in this Agreement or by order of the Court , and for which Plaintiffs’ Counsel will request approval by the Court.

**QQ. Settlement Agreement.** “Settlement Agreement” shall mean this Settlement Agreement of Class and Collective Action and Release of Claims, including any attached exhibits.

**RR. Settlement Fund.** “Settlement Fund” means the qualified settlement fund that will be established by the Settlement Administrator consistent with the requirements of 26 U.S.C. § 468B.

## **II. RECITALS**

### **A. Procedural History of the Action.**

Named Plaintiffs initiated the Action on January 10, 2023 in the Court by filing the Complaint asserting putative collective/class actions claims under the Fair Labor Standard Act (“FLSA”) and North Carolina Wage and Hour Act (“NCWHA”), as well as Named Plaintiff Gomez’s individual claims under North Carolina Retaliatory Employment Discrimination Act (“REDA”), 29 N.C. Gen. Stat. § 95-240, and North Carolina public policy. On April 20, 2023, Defendants filed a Motion for Partial Dismissal of the Collective and Class Action Complaint. On May

5, 2023, Named Plaintiffs filed the Amended Complaint. On May 19, 2023, Defendants filed a Motion for Partial Dismissal of the First Amended Complaint. On March 20, 2024, the Court granted in part and denied in part Defendants' Motion for Partial Dismissal of the First Amended Complaint. On September 5, 2023, as jointly requested by the Parties, the Court issued a scheduling order that bifurcated discovery into two phases. During Phase I discovery the Parties engaged in written discovery, production of documents, and depositions. Subsequently Named Plaintiffs filed a motion for conditional and class certification and Defendants filed a motion for summary judgment on Named Plaintiff Gomez's REDA and North Carolina public policy claims.

**B. Settlement Negotiations and Mediation.**

While the Parties' respective post-Phase I motions were pending, they attended in-person mediation on October 28, 2024, before The Honorable James E. Gates, United States Magistrate Judge for the United States District Court for the Eastern District of North Carolina. Following the mediation session, Judge Gates continued to facilitate settlement discussions between the Parties. The mediation and follow-up discussions thereto resulted in this Settlement Agreement.

**C. Named Plaintiffs' Claims and Benefits of Settlement.**

The Amended Complaint asserts claims under the FLSA and NCWHA for alleged unpaid overtime compensation, unpaid wages, and related penalties and

damages, as well as under N.C. Gen. Stat. §§ 95-25.8(a)(2), et seq. for alleged unlawfully deducted wages. The FLSA and NCWHA overtime and unpaid wages claims relate to alleged time spent by chicken-process line employees at Mountaire's North Carolina facilities donning and doffing personal protective equipment ("PPE") and other work clothing pre-shift, post-shift, and during unpaid 36-minute meal breaks. The alleged unlawful deduction claim relates to payments for chicken purchased through Mountaire's employee chicken-sale program and charges for optional and lost/damaged gear. In addition, Named Plaintiff Gomez brings an individual retaliation claim under REDA and wrongful termination claim based on a purported violation of North Carolina public policy.

The Named Plaintiffs have vigorously prosecuted this case, and Defendants have vigorously contested it. The factual investigation and discovery conducted in this matter, and discussions between Plaintiffs' Counsel and Defense Counsel, have been adequate to give the Named Plaintiffs and Plaintiffs' Counsel a sound understanding of the merits of their positions, to evaluate the potential worth of the claims, and to compromise those claims on a fair and equitable basis. This Settlement was reached with the assistance of an experienced mediator and United States Magistrate Judge, the Honorable James E. Gates, after arm's-length settlement discussions, culminating in an agreement between the Parties.

While Named Plaintiffs and Plaintiffs' Counsel believe that the claims asserted in the Action have merit, they also recognize and acknowledge the risk inherent in any litigation, as well as the expense and delay of continued lengthy proceedings necessary to prosecute the Action against Defendants through trial and through appeals. Plaintiffs' Counsel has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential difficulty of obtaining certification of the Action as well as trying the claims of the Rule 23 Settlement Class Members and Putative FLSA Collective Members. Plaintiffs' Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims alleged in the Action.

Plaintiffs' Counsel believes that this Settlement confers substantial benefits upon the Eligible Settlement Members and that an independent review of this Settlement by the Court in the approval process will confirm this conclusion. Based on their own independent investigation and evaluation, Plaintiffs' Counsel has determined that the Settlement set forth in the Settlement Agreement is in the best interests of the Eligible Settlement Members.

**D. Defendants' Denial of Wrongdoing and Liability.**

Defendants have denied and continue to deny each and all of the claims and contentions alleged by the Named Plaintiffs in the Action. Defendants have

expressly denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendants contend that they complied in good faith with the FLSA and North Carolina Wage Act, properly compensated Rule 23 Settlement Class Members and Putative FLSA Collective Members under applicable state and federal laws and have dealt legally and fairly with Rule 23 Settlement Class Members and Putative FLSA Collective Members. Defendants further deny that, for any purpose other than settling this Action, these claims are appropriate for class or collective treatment. Nonetheless, Defendants have concluded that further proceedings in the Action would be protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement in order to dispose of burdensome and protracted litigation, and to permit the operation of Defendants' businesses without further expensive litigation and the distraction and diversion of their personnel with respect to matters at issue in the Action. Defendants have also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Action. Defendants have, therefore, determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Settlement.

**E. Class Certification, Conditional Collective Certification, and Appointment of Class Counsel.**

For the purposes of this Settlement only, the Parties stipulate to certification of the Rule 23 Settlement Class pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3). Defense Counsel believes this certification is appropriate because the Released Claims are being compromised without the need to establish the elements of those claims on which liability turns.

The Parties also stipulate to conditional certification of a collective action pursuant to the FLSA, 29 U.S.C. § 216(b), comprised of all Putative FLSA Collective Members, and the sending to all Putative FLSA Collective Members notice of the option to join the FLSA claims in the Action solely for the limited purposes of this Settlement by submitting a Claim Form. For purposes of this Settlement and subject to the Court's approval, the Parties hereby stipulate, for purposes of this Settlement only, that Named Plaintiffs are adequate to serve as Class Representatives and Plaintiffs' Counsel as Class Counsel for the Rule 23 Settlement Class and Participating FLSA Collective Members and the effectuation of the Settlement.

Therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties do hereby settle, compromise, and resolve any and all claims specified herein, except with respect to enforcement of this Agreement, as follows:

### **III. APPROVAL OF SETTLEMENT AND DISMISSAL OF ACTION**

#### **A. Cooperation.**

The Parties agree to cooperate and take all steps necessary to accomplish and implement the terms of this Settlement Agreement.

#### **B. Fair, Adequate, and Reasonable Settlement.**

The Parties agree that the Settlement is fair, adequate, and reasonable and will so represent to the Court.

#### **C. Unopposed Motion for Preliminary Approval of Settlement.**

Within fourteen (14) days after the execution of this Agreement, Named Plaintiffs will move the Court to (a) preliminarily approve the Settlement Agreement; (b) solely for purposes of the Settlement, conditionally certify this Action as a collective action pursuant to the FLSA, 29 U.S.C. § 216(b) and a North Carolina Wage Act class action pursuant to Fed. R. Civ. P. 23; and (c) approve the proposed Notice and Claim Form to Eligible Settlement Members. Defendants shall not oppose this motion, provided that they are afforded the opportunity to review and approve, and have approved, the form and substance of the motion and supporting papers in advance of filing. The Parties agree that in the event that the Settlement fails to receive final approval from the Court, or otherwise fails to become effective, any collective or class actions certified solely for purposes of the Settlement shall be decertified and the Action returned to the *status quo ante*.



The proposed Notice shall be consistent with due process concerns and requirements pursuant to Rule 23 of the Federal Rules of Civil Procedure. The proposed Notice will contain a URL link (using a name to be agreed to by the Parties) to a website maintained by CPT Group. The Settlement Administrator will: email the proposed Notice to the personal email addresses for Eligible Settlement Members, to the extent Defendants have personal email addresses for such individuals; text a link to the personal cell phone numbers for Eligible Settlement Members, for whom Defendants have personal cell phone numbers, an electronic form of the Notice on the website maintained by the CPT Group; and mail the proposed Notice via First Class U.S. mail to Eligible Settlement Members. Along with the Court-approved Notice, the Settlement Administrator shall also include a simple Claim Form that Eligible Settlement Members will be required to complete in order to become a Claimant and therefore receive an Individual Settlement Payment, as discussed in this Agreement, and a postage pre-paid return envelope. The proposed Notice shall inform Eligible Settlement Members: (i) of the nature of this Action and the defined collective/class; (ii) their rights and options in the Settlement, including (a) returning the Claim Form and receiving a settlement payment, but releasing all of their wage and hour claims (the only exception is that if a person previously filed a consent to join, they will not be required to submit another Claim Form to be a part of this settlement), (b) doing nothing and not

receiving a settlement payment, but still being bound by the release of all wage and hour claims other than those arising under the FLSA, or (c) opting out of the settlement by submitting a written request for exclusion, and not releasing any claims; (iii) why they are receiving the Notice and Defendants' position regarding the Settlement (i.e., Defendants do not admit liability); (iv) who is eligible to participate in the Settlement; (v) what does the Settlement provide, and advising that Named Plaintiffs will seek service awards, attorneys' fees and costs and the respective amounts; (vi) release language; (vii) the fact that the Court has appointed Plaintiffs' Counsel as Class Counsel and their contact information; (viii) how Class Counsel will be paid; (ix) how the pro-rated Individual Settlement Payments will be allocated 50/50 between wages and liquidated damages; (x) the estimated time line for settlement payments to individuals who submit Claim Forms; (xi) the Settlement Administrator's contact information; (xii) instructions on how to object to the Settlement, the Court's potential response to such objections, and the difference between objecting and requesting exclusion from the settlement; (xiii) details relating to the date of any potential fairness hearing and instructions on speaking at the fairness hearing; (xiv) the prohibition on Defendants retaliating or discriminating against Eligible Settlement Members ; and (xv) how to get more information relating to the Settlement by contacting Class Counsel or the Settlement Administrator. The proposed Notice provided to Eligible Settlement Members will not indicate the

amount of each member's Individual Putative Settlement Amount. However, Eligible Settlement Members may obtain the amount of his or her Individual Putative Settlement Amount by contacting the Settlement Administrator or Class counsel, who will provide that information.

**D. Preliminary and Final Orders.**

The unopposed Motion for Preliminary Approval of Settlement will ask the Court to enter a proposed Preliminary Approval Order granting preliminary approval of the Settlement, appointing Plaintiffs' Counsel as Class Counsel, approving the Settlement Administrator, and approving the proposed Notice and Claim Form prepared by Plaintiffs' Counsel and approved by Defendants prior to filing, which will (i) inform Putative FLSA Collective Members of their right to become Participating FLSA Collective Members in this Action by signing and returning a Claim Form; and (ii) inform Rule 23 Settlement Class Members of their right to sign and return a Claim Form if they wish to receive an Individual Settlement Payment, to request exclusion from the Settlement if they do not wish to participate, and to submit objections to the Settlement if they do not request exclusion. At the conclusion of the Claim Period, Named Plaintiffs will move the Court for final approval of the Settlement and will submit a Proposed Final Order and Judgment dismissing the Action with prejudice. Class Counsel shall submit to the Court such pleadings and/or evidence as may be required for the Court's determination of this

motion for final approval and agree to execute all documents necessary to dismiss with prejudice any and all claims raised against Defendants in the Action. Defendants agree not to oppose such motion for final approval, provided that they are afforded the opportunity to review and approve, and have approved, the form and substance of the motion and supporting papers in advance of filing. Plaintiffs will request that the Court not issue an order granting final approval of this Settlement until at least ninety (90) days after the mailing of the CAFA Notice.

**E. Failure to Procure Approval.**

Final approval of the Settlement by the Court is a material term of the Settlement Agreement. If the Court declines to enter a Preliminary Approval Order, or an order granting final approval to this Settlement, in substantially the same form as that submitted by the Parties, or a Court of Appeals reverses the Court's order granting final approval to this Settlement, the Settlement Agreement shall become null and void, provided, however, that the Parties agree to work cooperatively and in good faith for a period of fifteen (15) calendar days (including seeking the further assistance of Magistrate Judge Gates, if necessary) following any denial or reversal of approval to address and resolve any concerns identified by the Court in declining to enter a Preliminary Approval Order or an order granting final approval to this Settlement, or by the Court of Appeals in reversing the entry of an order by the Court granting final approval to this Settlement.

Should the Parties address and resolve any concerns identified by the Court during that 15-day period, they shall re-submit the Settlement Agreement, as amended, to the Court for approval. Should the Parties' efforts during that 15-day period to address and resolve any concerns identified by the Court or Court of Appeals prove unsuccessful, the Settlement Agreement shall become null and void, and no party shall be bound by any of its terms, including any obligation to make any payments or to release any claims.

In the event the Settlement Agreement becomes null and void (i) any order certifying a class or collective action for purposes of the Settlement shall be vacated, any such class or collective action shall be decertified, and Defendants shall reserve their right to oppose any future motion or request for class- or collective action certification; (ii) the Settlement Agreement and all negotiations, statements, and proceedings relating thereto, shall be without prejudice to the rights of any of the Parties in the Action, all of whom shall be restored to their respective positions prior to the Settlement; and (iii) neither this Agreement, nor any ancillary documents, actions, statements, or filings in furtherance of Settlement shall be admissible or offered into evidence in the Action or any other legal proceeding for any purpose whatsoever.

#### **IV. SETTLEMENT PROCEEDS**

##### **A. Gross Settlement Amount.**

In order to settle the claims against Defendants in the Litigation, and as consideration for release of claims, dismissal of the Action, and the other good and valuable consideration described herein that Named Plaintiffs, Claimants, and Rule 23 Class Members are providing to Defendants, Defendants agree to pay up to the total Gross Settlement Amount, which shall be used to provide for: (i) Individual Settlement Payments to Claimants; (ii) the Service Awards, as described herein; (iii) Plaintiffs' or Class Counsels' Fees and Expenses, as described herein; and (iv) the expenses of the Costs of Administration, as described herein.

Pursuant to this Agreement, Defendants will not be required to pay any amount over \$7,260,000.00, except that Defendants will separately pay their share of payroll taxes in connection with the Individual Settlement Payments to Claimants. This amount, which has been negotiated between the Parties and is mutually agreeable, represents the maximum gross amount Defendants would pay pursuant to this Agreement.

##### **B. Individual Putative Settlement Amounts and Individual Settlement Payments.**

###### **1. Determination of Individual Putative Settlement Amounts.**

Plaintiffs' Counsel will be responsible for preparing an allocation of the Net Settlement Amount specifying how much will be allocated to potential settlement

payments to each Eligible Settlement Members should they become Claimants (i.e., Individual Putative Settlement Amounts) and obtaining the acceptance of the allocation by the Named Plaintiffs and the Court. To the extent Plaintiffs' or Class Counsel's methodology for apportioning the Net Settlement Amount would result in any Eligible Settlement Member being allocated an Individual Putative Settlement Amount of fewer than \$100.00, they shall be allocated a minimum of \$100.00 for releasing wage and hour claims (FLSA and NCWHA).

Allocations of the Net Settlement Amount (i.e., determination of the Individual Putative Settlement Amounts) to each Eligible Settlement Member shall be made prior to the issuance of Notice and before it is known which Eligible Settlement Members will become Claimants.

Defendants' counsel shall be permitted the right to review and approve of the methodology for allocating the Net Settlement Amount among FLSA collective and Rule 23 class members. Defendants shall not unreasonably withhold approval for such methodology. Defendants' agreement to Plaintiffs' or Class Counsel's methodology for apportioning the Net Settlement Amount between Eligible Settlement Members and thereby determining Individual Putative Settlement Amounts, shall not be construed as an admission or agreement by Defendants that such individuals have been harmed or that any damages assigned to individual Eligible Settlement Members under the approved methodology correctly reflect any

alleged harm. Moreover, such allocations shall not be construed as an acknowledgment that any Eligible Settlement Members are entitled to such Individual Putative Settlement Amounts or Individual Settlement Payments outside of participation in the settlement of this Action. Rather, such allocations represent only what each individual Eligible Settlement Members shall be offered, and what they shall be paid, should they become Claimants.

Once the Parties have agreed on the methodology for allocation, and the Court has granted preliminary approval of the Settlement, Plaintiffs' Counsel's will provide the allocation information to the Settlement Administrator.

## **2. Individual Settlement Payments**

To the extent that any Eligible Settlement Members do not become Claimants, they will not receive the Individual Putative Settlement Amounts, Individual Settlement Payments, or any other payments from the Net Settlement Amount. Only Eligible Settlement Members who become Claimants will receive an Individual Settlement Payment. All Individual Settlement Payments shall be paid from the Net Settlement Amount. The Individual Putative Settlement Amounts allocated to or associated with Eligible Settlement Members who do not become Claimants, which are to be determined prior to the issuance of Notice, shall remain the sole and exclusive property of Defendants, and Defendants shall have no liability for those individuals whatsoever. In no event will such amounts be redistributed to Claimants.



To the extent that a Claimant does not negotiate their Individual Settlement Payment within 180 days of issuance, such Individual Settlement Payment shall be void and shall constitute the Reversion Amount, which the Settlement Administrator shall revert to Defendants (*See supra* Article V, Section M – Settlement Administration and Notice Process – Tendering of Reversion Amount).

### **3. Tax Treatment of Individual Settlement Payments**

The Parties agree that each Individual Settlement Payment to be issued to each Claimant pursuant to this Agreement shall be separated into two amounts: fifty percent (50%) shall be allocated to the claims asserted in this Action for unpaid wages and fifty percent (50%) shall be allocated to the claims asserted in this Action for liquidated damages, statutory penalties, and/or other relief. The portion of each Individual Settlement Payment allocated to liquidated damages, statutory penalties, and/or other relief shall be characterized as non-wage income to each Claimant. Defendants and each Claimant will be solely responsible for their respective share of any tax liability. Named Plaintiffs acknowledge that Defendants have not provided any representations regarding the tax treatment of the Individual Settlement Payments to Claimants, or any other payments to Named Plaintiffs as part of this Settlement, and that each Named Plaintiff and Claimant shall be solely responsible for the payment of applicable taxes on such payments, except for the employer's share of payroll taxes associated with the portion of any such payments attributable

to wages. Named Plaintiffs agree to indemnify Defendants against any tax liabilities associated with payments made under this settlement, other than the employer's share of payroll taxes. That portion of each Settlement Payment allocated to claims of unpaid wages also will be subject to authorized or required deductions, including employee-paid payroll tax withholdings required by law, garnishments, and tax liens. Defendants' share of all required payroll taxes associated with the portion of each Individual Settlement Payment allocated to claims of unpaid wages will be paid separate and apart from the Gross Settlement Amount and Net Settlement Amount.

The Settlement Administrator shall withhold taxes from the portion of the Individual Settlement Payment made to each Claimant attributable to non-wage income as required by applicable law. The Settlement Administrator shall withhold taxes from the portion of the Individual Settlement Payment made to each Claimant attributable to wages as required by applicable law.

The Settlement Administrator will report the portion of the Individual Settlement Payment made to each Claimant attributable to wages on an I.R.S. Form W-2, and the portion of the Individual Settlement Payment made to each Claimant attributable to non-wage income on an I.R.S. Form 1099. The Settlement Administrator shall be responsible for issuing the settlement checks, less required withholdings and deductions, to each Claimant, and mailing the settlement checks,

Form W-2s, and Form 1099s to each Claimant for their receipt of their Individual Settlement Payment.

**C. Named Plaintiffs' Service Awards.**

Subject to approval from the Court, in addition to their Individual Settlement Payments, the Named Plaintiffs can petition the Court to each receive up to \$15,000.00 from the Gross Settlement Amount, as service awards in recognition of their assistance to Plaintiffs' or Class Counsel and their contribution to achieving the Settlement on behalf of the Eligible Settlement Members. Defendants shall not oppose Named Plaintiffs' requests to the Court for Service Awards, provided that Defendants are afforded the opportunity to review and approve, and have approved, the form and substance of the motion requesting the same in advance of filing. Any denial or reduction in the requested amount of Service Awards by the Court is not a basis for Named Plaintiffs to void, rescind, or terminate this Agreement. To the extent the Court reduces either or both Named Plaintiffs' Service Awards, such amounts will become part of the Net Settlement Amount and will be allocated to Individual Putative Settlement Amounts to Eligible Settlement Members. Receipt of any Service Award approved by the Court is contingent on Named Plaintiffs signing this Agreement and not exercising their revocation right discussed in Article VI, Section A (Release of Claims – Claims Released by Named Plaintiffs).

The Service Awards approved by the Court shall not be considered wages, and the Settlement Administrator shall issue each of the Named Plaintiffs an I.R.S. Form 1099 reflecting such payment. Each Named Plaintiff shall be responsible for the payment of any and all taxes with respect to the Service Award and shall indemnify and hold Defendants harmless for any and all liability with regard thereto.

**D. Plaintiffs' Counsel's Fees and Expenses.**

Plaintiffs' or Class Counsel may make an application or applications to the Court for an award of Plaintiffs' or Class Counsel's Fees and Expenses. The amount of fees and expenses sought by Plaintiffs' or Class Counsel will not exceed thirty-three percent (33%) (i.e., \$2,420,000.00) of the Gross Settlement Amount. Any application requesting Plaintiffs' or Class Counsel's Fees and Expenses shall be filed as part of the motions for preliminary approval. Defendants will not oppose any such application for fees or costs, provided that Defendants are provided an opportunity to review and approve Plaintiffs' or Class Counsel's application and all supporting materials before submitting such application or applications prior to filing, and provided Plaintiffs' or Class Counsel do not seek to recover attorneys' fees or costs in excess of thirty-three percent (33%) (i.e., \$2,420,000.00) of the Gross Settlement Amount.

In the event that the Court awards Plaintiffs' or Class Counsel less attorneys' fees and expenses than requested, only the amounts actually awarded by the Court

will be considered Plaintiffs' or Class Counsel's Fees and Expenses for purposes of this Agreement, Moreover, in the event that the Court awards Plaintiffs' or Class Counsel less attorneys' fees and expenses than requested, the amount of the reduction will become part of the Net Settlement Amount and will be allocated to Putative Individual Settlement Amounts for Eligible Settlement Members. Any reduction in the amount of Plaintiffs' or Class Counsel's fees and expenses sought by the Court is not a basis for Named Plaintiffs or Plaintiffs' or Class Counsel to void, rescind, or terminate this Agreement.

Payment of such Plaintiffs' or Class Counsel's Fees and Expenses to Plaintiffs' or Class Counsel, as set forth in this Agreement, shall constitute full satisfaction of any and all obligations by Defendants to pay any person, attorney, or law firm (including but not limited to Plaintiffs' or Class Counsel's) for attorneys' fees, expenses, or costs (including but not limited to any fees, costs, and expenses related to any experts and/or consultants and any fees, costs, and expenses associated with mediation) incurred on behalf any and all Claimants and Rule 23 Class Members, and shall relieve Defendants of any other claims or liability to any person for any attorneys' fees, expenses, and costs to which any person may claim to be entitled on behalf of any Claimant for this Action. Upon payment of Plaintiffs' or Class Counsel's Fees and Expenses hereunder, Defendants without further action

shall be released from any and all claims for attorneys' fees, expenses, and costs relating to this Action.

Plaintiffs' or Class Counsel's Fees and Expenses will be paid solely from the Gross Settlement Amount. In no event shall any award of Plaintiffs' or Class Counsel's Fees and Expenses to Plaintiffs' or Class Counsel cause Defendants to pay more than the Gross Settlement Amount in full satisfaction of all their obligations under this Agreement.

The amounts paid to Plaintiffs' or Class Counsel as an award of Plaintiffs' or Class Counsels' Fees and Expenses shall be treated as non-wage income to Plaintiffs' or Class Counsel and reported to appropriate taxing authorities on I.R.S. Forms 1099, or the appropriate equivalent, where applicable.

The Parties agree that Defendants shall not be responsible for any income tax liabilities arising from the payment of Plaintiffs' or Class Counsel's Fees and Expenses and Claimants and/or Plaintiffs' or Class Counsel, as appropriate, shall indemnify and hold Defendants harmless from any and all liability with regard thereto. Nothing in this Agreement shall be construed as Defendants or Defense Counsel providing any advice regarding the payment of taxes or the tax consequences of a person's participation in any portion of this Agreement or Settlement.

## **V. SETTLEMENT ADMINISTRATION AND NOTICE PROCESS**

### **A. Selection and Approval of Settlement Administrator.**

The Settlement will be administered by the Settlement Administrator selected by the Parties, following the Settlement Administrator's approval by the Court. Named Plaintiffs shall request the Court's approval of the Settlement Administrator, and the specific tasks it is to perform in connection with the Settlement, as part of their Motion for Preliminary Approval of the Settlement, discussed in Article III, Section 3 (Approval of Settlement and Dismissal of Action – Unopposed Motion for Preliminary Approval). To that end, as part of Named Plaintiffs' unopposed Motion for Preliminary Approval, Named Plaintiffs shall request that the Court approve CPT Group as the Settlement Administrator and order that such entity perform the specific tasks assigned to the Settlement Administrator in this Agreement or by order of the Court, and only those tasks, unless otherwise specifically agreed to by the Parties. These tasks shall generally include, but are not limited to: (i) determining the amount of the Net Settlement Amount; (ii) issuing the agreed Notice to all Eligible Settlement Members after entry of the Preliminary Approval Order; (iii) processing Claim Forms submitted by Claimants; (iv) issuing payment to Plaintiffs' or Class Counsel of any Court-approved Plaintiffs' or Class Counsel's Fees and Expenses; (v) issuing payment of any Court-approved Services Awards to Named Plaintiffs; (vi) issuing Individual Settlement Payments to Claimants in the amounts

of the Individual Putative Settlement Amounts provided by Plaintiffs' or Class Counsel based on the methodology prepared by Plaintiffs' Counsel and approved by Defendants and the Court as discussed in Article IV, Section B.1 (Settlement Consideration – Individual Putative Settlement Amounts and Individual Settlement Payments); (vii) issuing payment for applicable payroll taxes for the Individual Settlement Payments to Claimants; (viii) determining Defendants' share of payroll taxes and processing the same; (ix) making required tax reporting to the appropriate federal and state taxing authorities; (x) issuing I.R.S. Form W-2s and I.R.S. Form 1099s to Claimants for their receipt of Individual Settlement Payments; (xi) issuing the Reversion Amount to Defendants; and (xii) any other activities specifically referenced in this Agreement as to be performed by the Settlement Administrator. The Parties agree that the Settlement Administrator is specifically prohibited from performing activities in relation to this Settlement except as specifically provided for in this Agreement, or as ordered by the Court, unless such activities are first communicated to, and approved in writing by, both Parties.

**B. Provision of Eligible Settlement Class Member Contact Information**

Within fourteen (14) days after the date the Court enters the Preliminary Approval Order, Defendants will provide the Settlement Administrator with the contact information (including name, Social Security Number, and employee identification number, as well as the last known home address, dates of employment



during the three-year period prior to commencement of this action through December 20, 2024, last known personal email address, and last known cell phone number for each such individual, to the extent available) for each Eligible Settlement Member. Moreover, to the extent Defendants have records identifying any other workforce that is non-English or non-Spanish speaking, Defendants will identify the same and provide such information regarding any non-English speaking workforce to the Settlement Administrator, to allow the Settlement Administrator to issue Notice to such individuals in their native language. The Settlement Administrator shall use such information to: (a) issue Notice to Eligible Settlement Members; and (b) advise Plaintiffs' or Class Counsel as to the size of the Eligible Settlement Members at Defendants' Lumber Bridge, North Carolina and Siler City, North Carolina Plants.<sup>1</sup> This information will remain confidential and will not be disclosed to anyone other than applicable taxing authorities, or pursuant to express written authorization by the applicable Eligible Settlement Member or by Court order. This specifically includes sharing such information with Plaintiffs' or Class Counsel prior

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<sup>1</sup> Because Plaintiffs' or Class Counsel's expert statistician will be responsible for calculating Individual Putative Settlement Payments for Putative Rule 23 Settlement Class Members and Putative FLSA Collective Action Members, Defendants will provide dates of employment during the three years prior to the commencement of this action through December 20, 2024 with unique identifying information for the sole purpose of determining the proper methodology and/or pro-rata allocation of the Net Settlement Amounts to each Putative FLSA Collective Action Member and Putative Rule 23 Settlement Class Member.

to the time that any particular Eligible Settlement Members submits a Claim Form. To the extent, however, that Eligible Settlement Members request to speak with Plaintiffs' or Class Counsel regarding their legal rights, the Settlement Administrator will promptly provide those individuals with Plaintiffs' or Class Counsel's contact information and provide Plaintiffs' or Class Counsel with that specific individual's contact information. Additionally, upon a Eligible Settlement Members' request to participate by sending back the Claim Form, the Settlement Administrator will promptly provide their contact information to Plaintiffs' or Class Counsel.

**C. Sending the Notice, Claim Form, and Any Related Materials.**

Following the Court's entry of Preliminary Approval Order, within thirty (30) days the Settlement Administrator shall send via First-Class U.S. Mail the Court-approved Notice, in English, Spanish, and any other languages to the extent required by Article V, Section B (Settlement Administration and Notice Process – Sending the Notice, Claim Form, and Any Related Materials), to the physical address, provided by Defendants for each Eligible Settlement Member informing them of the Settlement, its details, and their options with respect to the Settlement. Additionally, to the extent Defendants have cell phone and/or personal email addresses for Eligible Settlement Members, the Settlement Administrator shall email the Notice and text a link to the Notice on the Settlement Administrator's website, in English, Spanish, and any other languages to the extent required by Article V, Section B (Settlement

Administration and Notice Process – Sending the Notice, Claim Form, and Any Related Materials), to the personal email address and/or cell phone number provided by Defendants for such Eligible Settlement Members.

The Settlement Administrator shall use the addresses provided by Defendants for Eligible Settlement Members, as updated by the Settlement Administrator from the United States Post Office's National Change of Address database. In the event that any Notice is returned as having been undelivered by the U.S. Postal Service, the Settlement Administrator shall perform a skip trace search and seek an address correction for such individual, and a second Notice will be sent to any new or different address obtained. Absent a request from an Eligible Settlement Member to resend the Notice, the Settlement Administrator will not otherwise issue any other notices, including any reminder notices, to Eligible Settlement Members.

**D. Responses to the Notice.**

Eligible Settlement Members shall have seventy-five (75) calendar days from the date the Settlement Administrator initially mails the Notice to request exclusion from the Settlement of the Released Claims, object to the Settlement of the Released Claims, and to submit Claim Forms to obtain their pro-rata Individual Settlement Payments by First-class U.S. Mail, whereby they also agree to join the FLSA claims in this Action and release the Released Claims and Released FLSA Claims.

**1. Submission of Claim Form.**

The Notice will inform Eligible Settlement Members that they must return a Claim Form in order to become a Claimant and receive an Individual Settlement Payment. To facilitate the return of the Claim Form, each Notice packet sent to each Eligible Settlement Member shall include a self-addressed return envelope with postage prepaid. *See infra* Article V, Section E (Settlement Administration and Notice Process – Timely Submission of Claim Form).

## **2. Request for Exclusion from Settlement.**

Any Rule 23 Settlement Class Member who wishes to be excluded from the Settlement shall have the Claims Period to submit a written request expressly asserting that he or she wishes to be excluded from the Settlement. Such written statements should state at the top of the letter “Request for Exclusion from Settlement in *Jacinto Gomez Ovando, et al., v. Mountaire Farms, Inc., et al., Case No. 7:23-cv-00004-M-RJ*” and should include the name, address, telephone number, and signature of the individual requesting exclusion from the Settlement of the Released Claims. All written requests for exclusion must be returned by First-Class U.S. Mail to the Settlement Administrator and must be postmarked no later than seventy-five (75) calendar days from the postmark of the initial Notice sent to such individual. Any Rule 23 Settlement Class Member who requests exclusion from the Settlement will not be eligible to receive an Individual Settlement Amount payment and cannot object to the Settlement. In the event that any Rule 23 Settlement Class

Member timely and properly submits a written request for exclusion, and also timely submits a Claim Form or also timely submits an objection to the Settlement, the Settlement Administrator shall contact such individual, inform them that they cannot request exclusion from the Settlement and submit a Claim Form and/or object to the Settlement, and shall ask such individual which option they wish to pursue. Any Rule 23 Settlement Class Member who requests exclusion from the Settlement will not be legally bound by the terms of the Agreement or the final order approving the Settlement. In contrast, any Rule 23 Settlement Class Member who does not return a valid and timely written request for exclusion will remain a Rule 23 Settlement Class Member and will be bound by this Agreement, including the release of Released Claims, and the final order approving the Settlement, regardless of whether they have submitted a Claim Form or have objected to the Settlement.

### **3. Objection to Settlement.**

Any Rule 23 Settlement Class Member who has not requested exclusion and wishes to object to this Settlement, or any part thereof, must file a written objection with the U.S. District Court for the Eastern District of North Carolina setting forth the nature of his or her objection, and the arguments supporting the objection, and serve copies of the objection to Plaintiffs' or Class Counsel and Defense Counsel. Rule 23 Settlement Class Members shall have seventy-five (75) calendar days from the postmark of the initial Notice sent to such individuals, to submit written

objections to the U.S. District Court for the Eastern District of North Carolina and serve copies of the objections to counsel for the Parties. Unless otherwise permitted by the Court, objecting Rule 23 Settlement Class Members shall not be entitled to speak at the Final Approval Hearing unless they have timely filed and served a written objection. Any Rule 23 Settlement Class Member who has properly and timely submitted objections may appear at the final approval hearing, either in person or through a lawyer retained at their own expense. Any Rule 23 Settlement Class Members who fails to file and serve a timely written objection shall be deemed to have waived any objection and shall be foreclosed from objecting to this Settlement.

**E. Timely Submission of Claim Form.**

To receive an Individual Settlement Payment, Eligible Settlement Members must become Claimants by timely signing and submitting the Claim Form to the Settlement Administrator within seventy-five (75) calendar days from the postmark of the initial Notice sent to such individuals, which also shall serve as a written consent pursuant to 29 U.S.C. § 216(b) to participate as a party plaintiff. Claim Forms will be deemed timely if they are properly completed and postmarked on or before the deadline for submitting Claim Forms. To the extent there are questions regarding whether a Claim Form is timely, the Settlement Administrator, along with Plaintiffs' or Class Counsel and Defense Counsel, will make that determination

based on the circumstances. The Settlement Administrator, Plaintiffs' or Class Counsel, and Defense Counsel shall accept Claim Forms received after the Claims Period for good cause as long as acceptance of the late Claim Form is consistent with the purposes of this Agreement. Named Plaintiffs and Eligible Settlement Members who submitted a consent to participate in the Litigation prior to the Parties' execution of this Settlement Agreement do not need to submit a Claim Form to receive their Individual Settlement Payment. The Settlement Administrator will provide completed Claim Forms, which also shall serve as a written consent pursuant to 29 U.S.C. § 216(b) to participate in Named Plaintiffs' FLSA claims, to Plaintiffs' or Class Counsel for filing with the Court as soon as practicable. To the extent that any Rule 23 Class Member does not become a Claimant by timely submitting the required Claim Form, such Rule 23 Class Members will still release the Released Claims as provided in this Agreement.

**F. Re-sending Notice to Eligible Settlement Members.**

The Settlement Administrator shall re-send the Court-approved Notice and Claim Form to Eligible Settlement Member who contacts the Settlement Administrator during the Claims Period, and who represents to the Settlement Administrator that they did not previously receive the Notice and/or Claim Form, or misplaced the Notice and/or Claim Form, and requests that the approved Notice and/or Claim Form be re-sent.

#### **G. Correcting Deficiencies in Claim Forms.**

In the event a Eligible Settlement Member submits a Claim Form in a timely manner (i.e., within the Notice Period), but the Claim Form is incomplete or otherwise deficient in one or more aspects, the Settlement Administrator shall (no later than fourteen (14) calendar days following the receipt of such Claim Form) return the deficient document to the individual with a letter explaining the deficiencies and stating that the individual will have fifteen (15) calendar days from the date the deficiency notice is postmarked to the Eligible Settlement Member to correct the deficiencies and resubmit the Claim Form. The envelope containing the corrected and resubmitted Claim Form must be postmarked within fifteen (15) days of the date the deficiency notice is mailed to the individual to be considered timely. The Settlement Administrator's decision on whether the deficiency has been remedied shall be binding.

#### **H. Administrator's Duty to Keep Parties Informed.**

The Settlement Administrator will keep the Parties' counsel reasonably informed about the progress of the administration. As soon as practicable following the deadline for returning Claim Forms, and the resolution of any deficient submissions, but before the date of submission of the motion for final approval and the Final Approval Date or Final Approval Hearing, the Settlement Administrator shall provide Plaintiffs' or Class Counsel and Defense Counsel with a declaration of



due diligence and information relating to the Notice and administration process, including skip tracing, website, distribution of Notice via U.S. Mail, text message, and email, and any other details that Defense Counsel or Plaintiffs' Counsel may believe is equally important to share with the Court. Plaintiffs' or Class Counsel shall file this declaration with the Court prior to the Final Approval Hearing.

**I. Time for Funding of Settlement.**

Seven (7) business days after the Effective Date, Defendants will remit to the Settlement Administrator the amounts allocated under this Settlement Agreement and approved by the Court for Service Awards, Plaintiffs' or Class Counsel's Fees and Expenses, Costs of Administrations, and Individual Settlement Payments for Claimants only. Defendants shall only have to deposit the portion of the Net Settlement Amount associated with the Individual Settlement Payments for Claimants, and Defendants shall retain and shall not deposit the portion of the Net Settlement Amount allotted to Eligible Settlement Members who do not become Claimants. Such funds shall be deposited in the Settlement Fund established by the Settlement Administrator.

**J. Time for Payment of Individual Settlement Amounts, Service Awards, and Attorneys' Fees and Expenses.**

Ten (10) business days after the Effective Date, the Settlement Administrator will issue the Service Awards to Named Plaintiffs and Plaintiffs' or Class Counsel's Fees and Expenses. Twenty-one (21) days after the Effective Date, or as soon

thereafter as practicable, the Settlement Administrator will issue payment of the Individual Settlement Amounts to Claimants, along with a letter approved by Plaintiffs' or Class Counsel and Defense Counsel explaining that the Settlement has received final approval and the claims released by the recipient. The checks remitting these payments shall include language, to be agreed upon by Plaintiffs' or Class Counsel and Defense Counsel, below the line for the recipient to endorse the check acknowledging the Released Claims and acknowledging their release of the Released FLSA Claims. The Settlement Administrator shall mail these funds to the address used to send the Notice or, if different, any address provided by Claimants on his or her Claim Form or at an updated address provided. The Settlement Administrator will make a reasonable attempt to find a good address (using LexisNexis or other qualified service) and resend Individual Settlement Amount checks for any that were returned as undeliverable.

**K. Costs of Administration.**

The Settlement Administrator shall be entitled to payment, from the Gross Settlement Amount, for Costs Administration (defined above).

**L. Tendering of Reversion Amount.**

Within 180 days after the Settlement Administrator mails the Individual Settlement Amount checks, the Settlement Administrator shall prepare and send to Defense Counsel and Plaintiffs' or Class Counsel an accounting of the settlement

distribution that identifies any checks issued but not cashed. Within seven (7) days of providing this accounting to Defense Counsel and Plaintiffs' or Class Counsel, the Settlement Administrator shall issue a check to Mountaire with the Reversion Amount comprised of the value of uncashed checks. Claimants who do not cash their checks nevertheless remain bound by the Settlement, including the release of FLSA Released Claims and Released Claims.

## **VI. RELEASE OF CLAIMS**

### **A. Claims Released by Named Plaintiffs.**

In order to settle the claims against Defendants in the Action, and as consideration for Defendants' payment of the Gross Settlement Amount, which shall provide funds for the Individual Settlement Amounts, Service Awards, and Plaintiffs' or Class Counsel Fees and Expenses, and the other good and valuable consideration described herein, Named Plaintiffs, on behalf of themselves, and their heirs, trustees, executors, successors, administrators, assigns, and representatives, shall and do hereby forever release, discharge and agree to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorney fees and costs), known or unknown, at law or in equity, and whether arising under federal, state, or other applicable law, which they may have against Defendants arising out

of, related to, or in any way connected with, their engagement by, alleged employment with, or their work for Mountaire, including but not limited to the Released Claims and the Released FLSA Claims, as well as any other claim arising out of any and all transactions, occurrences, or matters between Named Plaintiffs and Released Parties prior to the Final Approval Date, except as prohibited by law.

Without limiting the generality of the foregoing, this release shall include, but not be limited to, any and all claims under the (a) Americans With Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.*, as amended; (b) Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age Discrimination in Employment Act and the Older Workers Benefit Protection Act, 29 U.S.C. § 621, *et seq.*; (f) the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, as amended; (g) the Equal Pay Act of 1963, as amended; (h) the Employee Retirement Income Security Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act (COBRA), 29 U.S.C. § 1161 *et seq.*; (j) the Rehabilitation Act of 1973, as amended; (k) the Family and Medical Leave Act of 1993, as amended, 29 U.S.C. § 2601, *et seq.*; (l) the National Labor Relations Act, 29 U.S.C. § 151, *et seq.*; (m) the Workers Adjustment and Retraining Notification Act (WARN), 29 USC § 2100 *et. seq.*, as amended; (n) the North Carolina Wage and Hour Act, N.C. Gen. Stat. § 95-25.1, *et seq.*; (o) North Carolina Persons With Disabilities Protection Act, N.C. Gen. Stat. § 168A-1, *et seq.*;

(p) Retaliatory Employment Discrimination Act (REDA) N.C. Gen. Stat. § 95-240, *et seq.*; and (q) any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on constitutional, statutory, common law or regulatory grounds, as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws. This release is for any and all legal, equitable and/or other relief, no matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney fees and costs, and the Named Plaintiffs hereby forever release, discharge, and agree to indemnify and hold harmless the Released Parties from any and all claims for attorney fees, costs, and expenses arising out of the matters released in this Settlement Agreement.

Named Plaintiffs also agree that, to the extent permitted by law, if a claim is prosecuted in their name against one of the Released Parties before any court or administrative agency, they waive, and agree not to take, any award of money or other damages from such proceeding. Named Plaintiffs agree that, unless otherwise compelled by law, if a claim is prosecuted in any of their names against one of the

Released Parties that they will immediately request in writing that the claim on their behalf be withdrawn.

Nothing in this Agreement is intended to waive Named Plaintiffs' claims (i) under COBRA or for unemployment, workers' compensation, or disability insurance benefits, (ii) for vested rights under employee compensation and benefit plans as applicable on the date Named Plaintiffs sign this Agreement, (iii) that may arise after Named Plaintiffs sign this Agreement, (iv) for reimbursement of expenses under the Defendants' expense reimbursement policies, (v) challenging Defendants' failure to comply with its promises under this Agreement, or (vi) that controlling law clearly states may not be released by private agreement.

Moreover, nothing in this Agreement (i) limits or affects Named Plaintiffs' right to challenge the validity of this Agreement under the ADEA or the OWBPA, (ii) prevents either party from communicating with, filing a charge or complaint with, from providing documents or information voluntarily or in response to a subpoena or other information request to; or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, the Occupational Safety and Health Administration, law enforcement, or any other federal, state or local agency charged with the enforcement of any laws, or from testifying, providing evidence, responding to a subpoena or discovery request in

court litigation or arbitration, (iii) requires Named Plaintiffs to disclose to Defendants any such filing, communication or participation; or (iv) prevents a non-managerial, non-supervisory employee from engaging in protected concerted activity under Section 7 of the NLRA or under similar state law such as joining, assisting, or forming a union, bargaining, picketing, striking, or participating in other activity for mutual aid or protection, or refusing to do so; this includes using or disclosing information acquired through lawful means regarding wages, hours, benefits, or other terms and conditions of employment, except where the information was entrusted to the employee in confidence by the Company as part of the employee's job duties. In addition, nothing in this Agreement limits or affects Named Plaintiffs' right to disclose or discuss sexual harassment or sexual assault disputes.

Named Plaintiffs further acknowledge entitlement to consider for twenty-one (21) days whether to accept the terms of this Release, and that Named Plaintiffs are not waiving rights or claims that may arise after the date this Settlement Agreement is executed. By executing this Settlement before the expiration of the 21-day period, Named Plaintiffs do so voluntarily, upon the advice and with the approval of Named Plaintiffs' Counsel, and Named Plaintiffs expressly and voluntarily waive their rights to consider the terms of the Release in this Settlement during any remaining portion of the 21-day period. Named Plaintiffs also understand that, after signing

this Settlement, each Named Plaintiff has seven (7) calendar days from the date Named Plaintiff signs this Agreement to revoke this Agreement by delivery of a written notice of revocation to Joshua Waxman, Esq. at Littler Mendelson, PC, 815 Connecticut Avenue, NW, Suite 400, Washington, DC 20006-4046, or [jwaxman@littler.com](mailto:jwaxman@littler.com). If the Revocation Period expires on a weekend or holiday, Named Plaintiff will have until the end of the next business day to revoke. If a Named Plaintiff revokes this Agreement, they will not be entitled to receipt of the Service Award. Named Plaintiffs acknowledge that they have been advised to consult with an attorney prior to executing this Agreement. Named Plaintiffs further acknowledge that they are receiving value beyond that to which they are already entitled.

**B. Claims Released by All Rule 23 Settlement Class Members and Claimants.**

It is the desire of the Parties, and the Rule 23 Settlement Class Members to fully, finally, and forever settle the Released Claims and dismiss the Action, with prejudice. Accordingly, as consideration for Defendants' payment of the Gross Settlement Amount, which shall provide funds for the Individual Settlement Amounts for any Rule 23 Settlement Class Members that are also Claimants, and the other good and valuable consideration described herein, each Rule 23 Settlement Class Member, regardless of whether they are also a Claimant and thus regardless of whether they receive an Individual Settlement Amount, on behalf of themselves and their heirs, trustees, executors, successors, administrators, assigns, and



representatives, shall and do hereby forever release, discharge, and agree to indemnify and hold harmless the Released Parties of and from any and all Released Claims that any Rule 23 Settlement Class Member has or might have, known or unknown, asserted or unasserted, of any kind whatsoever, except to the extent that any such claim may not be waived as a matter of law, up to and including the Final Approval Date.

**C. Additional Claims Released by Claimants.**

Additionally, in order to fully settle their claims against Defendants in the Action, and as consideration for Defendants' payment of the Gross Settlement Amount, which shall provide funds for the Individual Settlement Amounts, Plaintiffs' or Class Counsel's Fees and Expenses, and the other good and valuable consideration described herein, the Claimants, on behalf of themselves, their heirs, trustees, executors, successors, administrators, assigns, and representatives, in addition to the release of claims described in the preceding paragraph, shall and do hereby forever release, discharge, and agree to indemnify and hold harmless the Released Parties of and from any and all claims arising under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201, et seq., which any Claimant has or might have, known or unknown, asserted or unasserted, of any kind whatsoever, except to the extent that any such claim may not be waived as a matter of law, up to and including the Final Approval Date.

**D. Effective Date of Releases.**

The releases herein shall become effective on the Effective Date.

**VII. DUTIES OF THE PARTIES**

**A. Duty to Support and Defend the Settlement.**

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

**B. Bar of Other Proceedings.**

The Parties agree to support the continued stay of all proceedings in this Action, except as may be necessary to implement the terms of the Settlement. Pending a final determination of whether the Settlement should be approved, the Named Plaintiffs, Rule 23 Settlement Class Members, and Claimants, and all persons purporting to act on their behalf, including Plaintiffs' or Class Counsel, are enjoined from commencing or prosecuting (either directly, representatively or in any other capacity) against any of the Released Parties any action, arbitration, or proceeding in any court, arbitration forum or tribunal asserting any of the claims released in Article VI (Release of Claims). The Court's final approval order shall enjoin Named Plaintiffs, Rule 23 Settlement Class Members, and Claimants from pursuing the claims released pursuant to the terms of this Agreement.

## **VIII. CONSTRUCTION**

### **A. Construction of Terms.**

The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her, or its counsel participated in the drafting of this Settlement Agreement.

### **B. Invalidation.**

Unless otherwise stated herein, invalidation of any material portion of the Settlement shall invalidate the Settlement in its entirety, unless the Parties shall subsequently agree in writing that the remaining provisions of the Settlement are to remain in full force and effect.

### **C. Captions and Interpretations.**

The captions of this Settlement Agreement are solely for reference and have no legal effect whatsoever and will not in any way affect the interpretation or construction of this Settlement Agreement.

## **IX. NON-ADMISSION**

Nothing in this Settlement Agreement shall be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of Defendants, and Defendants deny any such liability. Moreover, nothing contained herein, nor the existence or consummation of this Settlement, is to be construed or

deemed an admission that Defendants failed to pay any individuals in compliance with the FLSA or the NCWHA. The Parties have entered into this Settlement for the purpose of compromising disputed claims and with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. This Settlement is a settlement document and shall be inadmissible in evidence in any proceeding. The preceding sentence shall not apply to an action or proceeding to approve, interpret, or enforce this Settlement.

## **X. MODIFICATION**

### **A. Modification.**

This Settlement Agreement may not be changed, altered or modified, except in a writing signed by the Parties. This Settlement Agreement may not be discharged except by performance in accordance with the terms or by a writing signed by the Parties.

### **B. Integration Clause.**

This Settlement Agreement contains the entire agreement between the Parties, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a Party or such Party's counsel, relating to the resolution of the wage and hour claims asserted in this Action, are merged into this Settlement Agreement. No oral understandings, statements, promises, or inducements contrary to the terms of this Settlement Agreement relating to the resolution of the wage and hour claims asserted in this Action exist. No rights

under this Settlement Agreement may be waived except in writing.

## **XI. MISCELLANEOUS**

### **A. Sending of CAFA Notice.**

Within ten (10) days of Named Plaintiffs' submission of their unopposed motion for preliminary approval of the Settlement, Defendants shall mail the CAFA Notice to the appropriate federal and state officials, as required by 28 U.S.C. § 1715.

### **B. Signatory Authorization to Settle.**

The signatories to this Settlement hereby represent that they are fully authorized to enter into this Settlement and bind the Parties to the terms and conditions of this Settlement, and that the Named Plaintiffs' signatures also bind any business entity through which the Named Plaintiffs provided services for Defendants.

### **C. Execution in Counterparts.**

This Settlement Agreement may be executed in counterparts, including, without limitation, by facsimile transmission or by transmission of a .pdf or other similar image file via e-mail. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, including, without limitation, those sent by facsimile transmission or by transmission of a .pdf or other similar image file via e-mail, and, when taken together with other signed

counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to all Parties.

**D. Non-Publicity.**

Named Plaintiffs and Plaintiffs' Counsel agree not to publicize the existence or terms of this Settlement through any kind of press release or other similar disclosure aimed at a mass audience. If Named Plaintiffs, and/or Plaintiffs' or Class Counsel are contacted by the media regarding this Settlement, they shall decline comment and/or state only that the parties have satisfactorily resolved the Litigation.

Except as required to procure Court-approval of this Settlement, or as compelled by a Court of competent jurisdiction or governmental agency, Named Plaintiffs agree to keep the existence of this Settlement and its terms confidential and to not disclose its existence or its terms to any third parties other than their immediate family members, attorneys, and tax or financial planning professionals. Plaintiffs' or Class Counsel further agree to keep the agreements confidential prior to Court-approval of the class/collective settlement and not to disclose any non-public terms of the Settlement thereafter. However, Plaintiffs' or Class Counsel may provide general publicly available details about this Settlement on Plaintiffs' or Class Counsel's website with instructions for contacting the Settlement Administrator, Plaintiffs' or Class Counsel, or referring Eligible Settlement Members to the Settlement Administrator's website.

**E. Non-Solicitation.**

Plaintiffs' or Class Counsel confirm they do not currently represent any individuals with respect to claims or potential claims against Mountaire, other than the Named Plaintiffs and individuals who previously opted-in to the Litigation. In connection with this Settlement, Plaintiffs' or Class Counsel agree that, following entry of the Preliminary Approval Order, Defendants will submit Eligible Settlement Members' contact information for both the Lumber Bridge and Siler City plants to the Settlement Administrator, but not to Plaintiffs' or Class Counsel. However, should the Court grant preliminary approval of this Settlement, the Court will certify this matter as a Rule 23 class action, and Plaintiffs' or Counsel will become Class Counsel to any individual Rule 23 Settlement Class Member who does not request exclusion from the class. Once this occurs, Plaintiffs' Counsel, as Class Counsel, have an ethical responsibility to adequately and fairly represent the interests of the class. Therefore, prior to any order by the Court granting preliminary certification, Plaintiffs' Counsel will be able to speak with putative Rule 23 Class Members, including any individuals Plaintiffs' Counsel may have previously spoken to, provided that any such individuals initiate contact first with Plaintiffs' Counsel. However, upon the Court's order granting preliminary certification of this matter, Plaintiffs' Counsel, as Class Counsel, will be able to initiate communications about this Litigation and this Settlement with any Eligible Settlement Member or client

provided that Plaintiffs' or Class Counsel already have their contact information or that an Eligible Settlement Member has sent back a Claim Form or has sought legal advice. Moreover, once an Eligible Settlement Member sends back a Claim Form in connection with this Settlement, the Settlement Administrator will promptly forward such Eligible Settlement Member's contact information to Plaintiffs' or Class Counsel. Subject to the other provisions herein, Plaintiffs' or Class Counsel will not initiate communications with any workers (who are not Rule 23 Class Members) providing services to Defendants for the purpose of encouraging such individuals to initiate legal proceedings against any Defendants. As it relates to Rule 23 Class Members, Plaintiffs' or Class Counsel agrees not to initiate communications with such individuals for the purpose of initiating new legal proceedings against Defendants.

While Plaintiffs' or Class Counsel shall not proactively reach out to any third-party worker who provides services for Defendants, nothing herein shall prevent Plaintiffs' or Class Counsel from communicating with and providing legal counsel and/or services to any such third-party worker who initiates contact with Plaintiffs' or Class Counsel, as Plaintiffs' Counsel shall determine what is appropriate in their professional judgment.

Defendants and Defense Counsel agree not to communicate with Eligible Settlement Members before the Court preliminarily certifies this matter for



settlement purposes regarding the nature of this Settlement or the anticipated notice. Additionally, once the Court issues the Preliminary Approval Order, neither Defendants nor Defense Counsel shall discuss this Settlement or anticipated notice with any Eligible Settlement Member, including but not limited to, answering any questions relating to the Notice or Settlement. Should Defendants and/or Defendants' management receive any questions from Eligible Settlement Members following the Court's entry of the Preliminary Approval Order and/or during the Claims Period, Defendants and/or its management will direct Eligible Settlement Members back to the Notice for either Plaintiffs' or Class Counsel or the Settlement Administrator's contact information.

Named Plaintiffs and Plaintiffs' or Class Counsel agree not to communicate with Eligible Settlement Members before the Court preliminarily certifies this matter for settlement purposes regarding the nature of this settlement or the anticipated notice. Additionally, once the Court grants preliminary approval of this settlement, neither Plaintiffs nor Plaintiffs' or Class Counsel shall initiate discussions regarding the Settlement or anticipated Notice with any Eligible Settlement Member, provided that Plaintiffs' or Class Counsel shall remain free to answer questions and provide guidance to any individuals who contact them or for whom contact information is provided to Plaintiffs' or Class Counsel in response to an inquiry to the Settlement Administrator or following the Eligible Settlement Members' submission of a

simple Claim Form. After careful and extended consideration, including review of relevant legal authorities, Plaintiffs' or Class Counsel have determined that the foregoing provision (referred to as "this provision" in this paragraph) is consistent with Plaintiffs' or Class Counsel's obligations as Class Counsel based on the following considerations, which reflect various provisions included in the Settlement Agreement at the urging of Class Counsel in furtherance of the interests of the class: (i) the robust content of the Notice of settlement to be sent to Eligible Settlement Members, which includes both information that itself can incentivize Eligible Settlement Members to participate in the Settlement and contact information for Plaintiffs' or Class Counsel and the Settlement Administrator, which must refer requests for legal advice to Plaintiffs' or Class Counsel; (ii) translation of the notice into Spanish and the other languages of non-English speaking Eligible Settlement Members or to help ensure that the notice can be understood by all Eligible Settlement Members; (iii) the multiplicity of means of service of the notice (e.g., First-class U.S. mail, text, and email (to the extent Defendants have personal email addresses and cellphone numbers)) and the providing of a self-addressed stamped envelope to facilitate the return of the completed Claim Form via mail, and the posting on Plaintiffs' or Class Counsel's website of publicly available information about the Settlement and contact information for Plaintiffs' or Class Counsel and the Settlement Administrator to help ensure that all Eligible Settlement Members obtain

access to information about the settlement; (iv) the substantial period allowed for Eligible Settlement Members to submit a simple Claim Form after service of the Notice (i.e., seventy-five (75) days), thereby providing ample time, not only to consider participation in the Settlement, but also to complete the process of submitting the Claim Form; (v) the opportunity Eligible Settlement Members have to contact Plaintiffs' or Class Counsel (using the contact information in the Notice or Plaintiffs' or Class Counsel's website) either directly or through the Settlement Administrator (who, as noted, must refer requests for legal advice to Plaintiffs' or Class Counsel) if they seek Plaintiffs' or Class Counsel's advice on whether or not to participate in the Settlement or other issues relating to the Settlement; (vi) the indispensability of Agreement by Named Plaintiffs and Plaintiffs' or Class Counsel to this provision, including its inclusion in the proposed Settlement Agreement, to reaching agreement on the Settlement; (vii) the significant value to the Eligible Settlement Members as a whole of the Settlement; (viii) the commonality of inclusion of provisions like that here in class and collective action settlements and of court approval of such settlements; (ix) the absence of controlling authority prohibiting inclusion of provisions like that here; and (x) preservation of the process of approval of the class and the settlement as one directed by the court whereby the court limits the information provided to the class during the notice period to the information included in a court-approved notice and publicly available information

to the exclusion of communications by Named Plaintiffs and Plaintiffs' or Class Counsel and Defendants and Defense counsel with class members, subject to the availability of other information from Plaintiffs' or Class Counsel and the Settlement Administrator if Eligible Settlement Members seek it, with the court-directed process including court review and approval of this provision before it would take effect.

**F. No Right to Reengagement or Hire.**

Named Plaintiffs agree that they will not seek re-employment from Defendants and acknowledge that they shall have no right to rehire. Should the Court not approve this provision, it shall not constitute grounds for Defendants to void this Settlement Agreement.

**G. Court Jurisdiction Over Settlement.**

The Parties agree that any dispute regarding the interpretation of the terms of this Settlement shall be resolved by the Court. The Parties further agree that, upon the Effective Date, this Settlement shall be binding and enforceable pursuant to applicable law.

**H. Governing Law.**

This Settlement shall be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to choice of law principles.

**I. Attorney Fees, Costs and Expenses.**

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

**J. No Prior Assignments.**

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

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

**[THIS SPACE INTENTIONALLY LEFT BLANK]**

**BY PLAINTIFFS:**

25/03/25

Date

25/03/25

Date

3/28/2025

Date

Jacinto Gomez Ovando

Jacinto Gomez Ovando (Mar 25, 2025 14:57 EDT)

JACINTO GOMEZ OVANDO

Maria Del Carmen Peralta Baeza

Maria Del Carmen Peralta Baeza (Mar 25, 2025 14:21 EDT)

MARIA DEL CARMEN PERALTA BAEZA

Gilda A. Hernandez

Gilda A. Hernandez

Hannah Simmons

Matthew Marlowe

The Law Offices of Gilda A. Hernandez, PLLC

1020 Southhill Drive, Suite 130

Cary, NC 27513

Tel: (919) 741-8693

ghernandez@gildahernandezlaw.com

hsimmons@gildahernandezlaw.com

mmarlowe@gildahernandezlaw.com

Counsel for Plaintiffs

**BY DEFENDANTS:**

Mountaire Farms Inc. and Mountaire Farms of  
North Carolina Corp.

Date

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

PRINTED NAME

**BY PLAINTIFFS:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
JACINTO GOMEZ OVANDO

\_\_\_\_\_  
Date

\_\_\_\_\_  
MARIA DEL CARMEN PERALTA BAEZA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gilda A. Hernandez  
Hannah Simmons  
Matthew Marlowe  
The Law Offices of Gilda A. Hernandez, PLLC  
1020 Southhill Drive, Suite 130  
Cary, NC 27513  
Tel: (919) 741-8693  
ghernandez@gildahernandezlaw.com  
hsimmons@gildahernandezlaw.com  
mmarlowe@gildahernandezlaw.com

Counsel for Plaintiffs

**BY DEFENDANTS:**

Mountaire Farms Inc. and Mountaire Farms of  
North Carolina Corp.

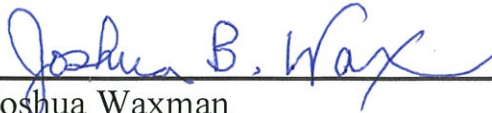
3/27/25  
Date

By: 

Amanda K. Wofford  
PRINTED NAME

3/28/25

Date



Joshua Waxman  
Littler Mendelson, P.C.  
815 Connecticut Avenue, NW  
Suite 400  
Washington, DC 20006-4046  
Tel: 202.789.3406  
jwaxman@littler.com

Michael S. McIntosh  
Littler Mendelson, P.C.  
1800 Tysons Blvd.  
Suite 500  
Tysons Corner, VA 22102  
Tel: 703.286.3118  
mmcintosh@littler.com

Jerry H. Walters, Jr.  
Littler Mendelson, P.C.  
620 South Tryon Street, Suite 950  
Charlotte, NC 28202  
Tel: 704.972.7013  
jwalters@littler.com

Attorneys for Defendants Mountaire Farms Inc. and  
Mountaire Farms of North Carolina Corp.