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FOSTER FARMS, LLC and
15 FOSTER POULTRY FARMS

16
17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 COUNTY OF MERCED

19
20 DALE M. LACROIX and ALEJANDRO HARO,
on behalf of themselves and all others similarly
21 situated,

22 Plaintiffs,

23 v.

24 FOSTER FARMS, LLC, a California limited
liability company; FOSTER POULTRY FARMS,
25 a California corporation; and DOES 1 through 50,
inclusive,

26 Defendants.
27
28

Case No. 19-cv-03393

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

Complaint Filed: February 1, 2019
Trial Date: N/A

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1 This Class Action Settlement Agreement and Release of Claims (“Agreement”) is between (1)
2 Plaintiffs Dale M. LaCroix, Jr. and Alejandro Haro, and (2) Defendant Foster Farms, LLC (defined
3 below) (collectively, the “Parties”), subject to judicial approval, as provided below.

4 By this Agreement the Parties intend to settle the Action (defined below) and to fully, finally,
5 and forever resolve, discharge, and settle the Released Claims (defined below), subject to judicial
6 approval of the terms set forth herein. If this Agreement is not finally approved, or is otherwise
7 nullified, then the Parties shall return to their positions preceding this Agreement and Defendant shall
8 retain all rights to challenge the Plaintiffs’ claims and the certification of any class.

9 **1. DEFINITIONS**

10 For the purposes of this Agreement, the Parties define the following terms. Each defined term
11 appears throughout in initial capital letters.

12 **1.1. “Action” or “First Amended Complaint”** refers to the Class Action initially
13 brought by Plaintiff Dale M. LaCroix, Jr. in the Superior Court of the County of Santa Clara (Case No.
14 19CV342011), which was transferred to the Superior Court of the County of Merced (and assigned Case
15 No. 19CV03393), and then subsequently amended to add Plaintiff Alejandro Haro as a named plaintiff.

16 **1.2. “Administrative Costs”** refers to all costs associated with administration of the
17 settlement contemplated by this Agreement. Administrative Costs include all fees and costs for, among
18 other things, printing, copying, formatting, postage, envelopes, computer searches to locate addresses,
19 calculation of payments to individual class members, any cost associated with the process for any
20 uncashed settlement checks, costs related to the settlement website, and any other expenses the
21 Settlement Administrator incurs to complete the settlement process according to the terms of this
22 Agreement. Administrative Costs are borne in the first instance by the Settlement Administrator. All
23 Administrative Costs shall be paid from the Gross Settlement Amount.

24 **1.3. “Agreement” or “Settlement Agreement”** refers to this Class Action Settlement
25 Agreement and Release of Claims, which includes all its Recitals herein and all the attached Exhibits.

26 **1.4. “Class Action”** refers to the lawsuit entitled *Dale M. LaCroix and Alejandro*
27 *Haro, on behalf of themselves and all others similarly situated v. Foster Farms, LLC, Foster Poultry*
28 *Farms, and Does 1 through 50, inclusive*, originally filed in the Superior Court of California, County of

1 Santa Clara (Case No. 19CV342011), and currently pending in the Superior Court of the County of
2 Merced, Case No. 19CV03393.

3 **1.5. “Class Action Complaint”** refers to the operative complaint containing class
4 allegations, which was originally filed in the Superior Court of California, County of Santa Clara (Case
5 No. 19CV342011), and currently is pending in the Superior Court of the County of Merced, Case No.
6 19CV03393).

7 **1.6. “Class Counsel”** refers to Setareh Law Group. For purposes of providing any
8 notices required under this Agreement, Class Counsel shall refer to Shaun Setareh and William M.
9 Pao, at Setareh Law Group, shaun@setarehlaw.com, william@setarehlaw.com, 9665 Wilshire Blvd.,
10 Suite 430, Beverly Hills, California 90212, (310) 888-7771.

11 **1.7. “Class Counsel Payment”** refers to the amount of attorney’s fees and costs that
12 the Court awards to Class Counsel in connection with the resolution of the Action in accordance with
13 this Agreement.

14 **1.8. “Class Member” or “Settlement Class Member”** refer to all individuals on
15 whom Defendant obtained a consumer report between February 1, 2014 and July 31, 2020. Defendant
16 estimates that there are approximately 39,208 individuals who are Settlement Class Members.

17 **1.9. “Class Representatives”** refer to Plaintiffs Dale LaCroix and Alejandro Haro.

18 **1.10. “Class Representative Service Awards”** refers to any payment that the Court
19 awards to the Class Representatives for efforts in prosecuting the Action on behalf of the Settlement
20 Class Members.

21 **1.11. “Consideration Period”** refers to the 60 calendar days following the date when
22 the Settlement Administrator mails the Notice of Class Action Settlement. The Consideration Period is
23 the period in which a Class Member can submit an Objection or a Request for Exclusion.

24 **1.12. “Court”** refers to the Judge presiding over the Class Action.

25 **1.13. “Defendant”** refers to Foster Farms, LLC and Foster Poultry Farms, and all
26 entities affiliated with Foster Farms, LLC and Foster Poultry Farms.

27 **1.14. “Defense Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing any
28 notices required under this Agreement, Defense Counsel shall refer to Christian Rowley

1 (crowley@seyfarth.com), Pamela Devata (pdevata@seyfarth.com), John Drury (jdrury@seyfarth.com),
2 and Eric Suits (esuits@seyfarth.com).

3 **1.15. “Effective Date”** means the date by which all of the following have occurred:

4 (a) This Agreement receives final approval by the Court; and

5 (b) The Judgment becomes Final. “Final” means the last of the following dates, as
6 applicable:

7 (c) If no objection to the Settlement is made, forty-five (45) calendar days after the
8 Parties receive Notice of Entry of Judgment.

9 (d) If an objection to the Settlement is made and Judgment is entered, but no appeal is
10 filed, forty-five (45) calendar days after the Parties receive Notice of Entry of Judgment.

11 (e) If Judgment is entered and a timely appeal from the Judgment is filed, thirty (30)
12 calendar days after the appeal is withdrawn or after an appellate decision affirming the final approval
13 decision.

14 **1.16. “Fairness Hearing” or “Final Approval Hearing”** refer to the hearing at which
15 the Court decides whether the terms of the Agreement are fair, reasonable, and adequate for the Class
16 Members and meet all requirements for final approval.

17 **1.17. “Final Approval Order”** refers to the final order by the Court approving the
18 Settlement following the Fairness Hearing.

19 **1.18. “Gross Settlement Amount” or “Settlement Fund”** refers to the payment
20 Defendant is obligated to make in connection with the Agreement: Two Million And Two Hundred
21 Thousand Dollars And No Cents (\$2,200,000.00). In no event shall Defendant be obligated to pay more
22 than this amount. This sum includes all Individual Settlement Payments, any Class Representative
23 Service Awards, Administrative Costs, and the Class Counsel Payment.

24 **1.19. “Individual Settlement Payment”** refers to the amount calculated by the
25 Settlement Administrator to distribute to each Settlement Class Member. The Individual Settlement
26 Payment shall be paid from the Net Settlement Amount.

27 **1.20. “Judgment”** refers to the final judgment entered by the Court in this Action
28 following the Fairness Hearing.

1 **1.21. “Net Settlement Amount”** refers to the portion of the Gross Settlement Amount
2 that remains after accounting for any Class Representative Service Award, Administrative Costs, and the
3 Class Counsel Payment. The Net Settlement Amount shall include all Individual Settlement Payments.

4 **1.22. “Notice of Class Action Settlement” or “Settlement Notice” or “Class Notice”**
5 refer to the notices of the terms of the Agreement to be sent and/or made available to Settlement Class
6 Members by the Settlement Administrator, substantially in the forms attached as Exhibits A and B. The
7 Settlement Administrator will post the Settlement Notice documents on a settlement website.

8 **1.23. “Objection”** refers to a written statement submitted timely by a Class Member to
9 the Settlement Administrator that contains (1) the name and case number of the Action (or reasonable
10 portion thereof), (2) the full name, last four digits of their social security number, and current address of
11 the Class Member making the Objection, (3) the specific reason(s) for the Objection, and (4) all
12 evidence and supporting papers (including, without limitation, all briefs, written evidence, and
13 declarations) for the Court to consider.

14 **1.24. “Objector”** refers to a Settlement Class Member who has submitted an
15 Objection.

16 **1.25. “Parties”** refers collectively to (1) Plaintiffs Dale M. LaCroix, Jr. and Alejandro
17 Haro, individually and on behalf of the Class (“Class Representatives”), and (2) Defendants Foster
18 Farms, LLC and Foster Poultry Farms (“Defendant”).

19 **1.26. “Plaintiffs”** refers to Class Representatives Dale M. LaCroix, Jr. and Alejandro
20 Haro, individually and on behalf of the Class.

21 **1.27. “Preliminary Approval Order”** refers to the order entered by the Court
22 following a Motion for Preliminary Approval of the Agreement.

23 **1.28. “Released Claims”** refers to the “Released Claims By Class Members” and the
24 “Released Claims By Class Representatives” as defined in Section 6 of this Agreement. The Released
25 Claims by Class Members shall apply to all Class Members who do not timely file a Request for
26 Exclusion.

27 **1.29. “Released Parties”** refers to Foster Farms, LLC, and its predecessors, successors,
28 subsidiaries, parent companies, other corporate affiliates, and assigns, and each and all of their current or

1 former subsidiaries, parents, affiliates, predecessors, insurers, agents, servants, employees, successors,
2 assigns, officers, officials, directors, attorneys, personal representatives, registered representatives,
3 executors, and shareholders, including their respective pension, profit sharing, savings, health, and other
4 employee benefits plans of any nature, the successors of such plans, and those plans' respective current
5 or former trustees and administrators, agents, employees, and fiduciaries, and any other persons acting
6 by, through, under or in concert with any of them.

7 **1.30. "Request for Exclusion"** refers to a timely, written, opt-out request signed by a
8 Class Member who thereby elects to be excluded from this Agreement.

9 **1.31. "Settlement Administrator"** refers to the third-party administrator the Parties
10 have selected, subject to Court approval.

11 **1.32. "Settlement Class"** refers to all Class Members who do not file a timely and
12 valid Request for Exclusion.

13 **2. RECITALS AND PROCEDURAL HISTORY**

14 **2.1. Allegations in Class Action Complaint.** On February 1, 2019, Plaintiff LaCroix
15 filed a class action complaint in the Superior Court of the State of California for the County of Santa
16 Clara, individually and on behalf of a purported class of similarly-situated employees. Plaintiff LaCroix
17 subsequently transferred the Action to the Superior Court of the State of California for the County of
18 Merced. On January 12, 2021, Plaintiff LaCroix filed the First Amended Complaint, which added
19 Plaintiff Haro as a named Plaintiff after Plaintiff Haro dismissed his Fair Credit Reporting Act claims
20 from his separately filed action. The First Amended Complaint asserts claims for (1) Violation of 15
21 U.S.C. §§ 1681b(b)(2)(A) of the Fair Credit Reporting Act; (2) Violation of 15 U.S.C. §§ 1681d(a)(1)
22 and 1681g(c) of the Fair Credit Reporting Act; (3) Violation of California Civil Code § 1786 *et seq.*; (4)
23 Violation of California Civil Code § 1785 *et seq.*; and (5) Unfair Competition (Bus. & Prof. Code §§
24 17200 *et seq.*).

25 **2.2. Defendant's Denials.** Defendant denies (1) all the material allegations in the
26 Action, (2) that it violated any applicable laws, (3) that it is liable for damages, penalties, interest,
27 restitution, attorneys' fees, or costs, or for any other compensation or remedy with respect to anyone on
28 account of the claims asserted in the Actions, and (4) that class certification is appropriate as to any

1 claim in the Action. Defendant contends that its policies, procedures, and practices comply with all
2 applicable laws asserted in the Action. Nonetheless, without admitting any liability or wrongdoing
3 whatsoever and without admitting that class certification is appropriate for any purpose other than for
4 settlement purposes alone, Defendant has agreed to settle the Action on the terms set forth in this
5 Agreement, to avoid the burden, expense, and uncertainty of litigation. Any statements by Defendant in
6 this Agreement are made for settlement purposes only.

7 **2.3. Class Counsel’s Investigation.** Class Counsel represents that they have
8 conducted a sufficiently thorough investigation into the claims of the Settlement Class and also analyzed
9 all applicable defenses raised by Defendant, including Defendant’s defenses relating to the applicable
10 statute of limitations and arguments related to Defendant’s position that it did not negligently or
11 willfully violate the FCRA or any other law. Based on their own independent investigation and
12 evaluation and all known facts and circumstances, including the risk of significant defenses asserted by
13 Defendant, Class Counsel are of the opinion that the Settlement is fair, reasonable, and adequate and is
14 in the best interests of the Settlement Class.

15 **2.4. Negotiation of Settlement.** Class Counsel engaged in intensive negotiations with
16 Defendant with a view toward achieving substantial benefits for the Class Members, while avoiding the
17 cost, delay, and uncertainty of further litigation. On November 18, 2020, the Parties participated in an
18 all-day (and into the night) mediation before Rodney Max, a highly respected mediator with expertise in
19 FCRA class actions. In advance of the mediation, the Parties exchanged documents and other
20 information relating to the claims in the Action and to Defendant’s defenses.

21 Plaintiff and Class Counsel urge approval of this Agreement after considering (1) the factual and
22 legal defenses to the claims asserted, which render uncertain the ultimate outcome of the Action and
23 class certification, (2) the potential difficulties Plaintiff and Class Members would encounter in
24 establishing their claims and maintaining class or representative treatment, (3) the substantial benefits
25 that Class Members would receive under this Agreement, (4) that this Agreement provides Class
26 Members relief in an expeditious and efficient manner, compared to any manner of recovery possible
27 after litigation and potential appeal, and (5) that this Agreement allows Class Members to opt out of the
28 Settlement and individually pursue the claims alleged in the Class Action.

1 **2.5. Certification of Settlement Class.** This Agreement is contingent upon the
2 Court's certification of the Settlement Class for settlement purposes only. Defendant does not waive,
3 and instead expressly reserves, the right to challenge the propriety of class certification for any other
4 purpose should the Court not approve the Agreement.

5 Now therefore, in consideration of the agreements set forth herein, and of the release of all
6 Released Claims, the Parties agree to the terms of this Agreement, subject to the approval of the Court.

7 **3. NOTICE TO CLASS MEMBERS**

8 **3.1. Content of Class Notice.** The Class Notices shall be substantially in the forms
9 attached as Exhibit A (to be sent by U.S. Mail to all Settlement Class Members) and Exhibit B (to be
10 available to all Settlement Class Members on the settlement website). Together, the Class Notices shall
11 inform Class Members of the amount of the Settlement, a calculation of the Class Members' anticipated
12 share of the Net Settlement Amount, the full amounts of the Class Counsel Payment and Class
13 Representatives Service Awards, the terms of the release, the procedure to opt out of the Settlement
14 through a Request for Exclusion, the procedure to Object to the Settlement, and the date of the Fairness
15 Hearing. No claim form will be required to participate in the Settlement.

16 **3.2. Settlement Administrator.** The duties of the Settlement Administrator shall
17 include, without limitation, preparing and mailing any necessary CAFA notices, mailing notices to Class
18 Members, establishing a Qualified Settlement Fund, calculating Individual Settlement Payments,
19 mailing Individual Settlement Payments to Settlement Class Members, remitting any tax payments and
20 requisite reporting documentation to taxing authorities, establishing a settlement website, and the other
21 duties associated with settlement administration, including specified in this Agreement.

22 **3.3. Class Data for the Settlement Administrator.** Within 21 calendar days of the
23 later of preliminary approval of this Settlement or court approval of the Class Notices, Defendant shall
24 provide to the Settlement Administrator a confidential class list containing the names and last known
25 address of each Class Member. This information shall be used to facilitate the administration of this
26 Agreement. The Settlement Administrator shall keep the class data provided by Defendant strictly
27 confidential and shall use the class data only for the purposes described in this Agreement, and shall
28 return the class data to Defendant or confirm the destruction of same upon completing the settlement

1 administration called for by this Agreement.

2 **3.4. Mailing Materials to Class Members.** Within 14 calendar days of the receipt of
3 the class data discussed immediately above in Section 3.3, the Settlement Administrator shall send the
4 Exhibit A Class Notice to all Class Members to their last known address via First Class U.S. Mail. Any
5 mailing returned to the Settlement Administrator as undeliverable shall be sent within five calendar days
6 via First Class U.S. Mail to any available forwarding address. If no forwarding address is available,
7 then the Settlement Administrator shall attempt to determine the correct address by using a computer-
8 based skip-trace search, and shall then perform, if feasible, a re-mailing via First Class U.S. Mail within
9 ten (10) calendar days. If the last known address is not available for a Class Member, then the Notice of
10 Class Action Settlement for that Class Member will be deemed undeliverable. Only one re-mailing is
11 required. If a Class Member cannot be located within two attempts at mailing, then the Notice of Class
12 Action Settlement for that Class Member will be deemed undeliverable. It is the intent of the Parties
13 that reasonable means be used to locate Class Members.

14 **3.5. Proof of Mailing.** At least twenty (20) calendar days prior to the Fairness
15 Hearing, the Settlement Administrator shall provide a declaration of due diligence and proof of mailing
16 with regard to mailing of the Notice of Class Action Settlement to Class Counsel and Defense Counsel,
17 which they shall in turn provide to the Court.

18 **4. CLASS MEMBERS' OPTIONS TO RESPOND**

19 **4.1. Consideration Period.**

20 **4.1.1. Submission of Objections and Requests for Exclusion.** Class Members
21 will have sixty (60) calendar days from the later of the date of the mailing or re-mailing of the Class
22 Notices to postmark their objections or written Requests for Exclusion to the Settlement Administrator.
23 Requests for Exclusion must state, in effect, that the Class Member does not wish to participate in the
24 settlement of this action. In addition, any Request for Exclusion must include the Class Member's first
25 and last name, signature, address, phone number, and last four digits of the Class Member's Social
26 Security number for verification purposes. A Class Member who excludes himself or herself from the
27 Settlement shall lose standing to object. Except as specifically provided herein, no Class Member
28 response of any kind that is postmarked after the Consideration Period shall be considered absent

1 agreement of the Parties.

2 **4.1.2. Deficiency Notices.** Within ten (10) days after receipt by the Settlement
3 Administrator of each timely-submitted request for exclusion, the Settlement Administrator will send a
4 deficiency notice to the Class Members addressing any irregularities in the request for exclusion (such
5 as failure to sign or include last four digits of Social Security Number). The deficiency notice will
6 provide the Class Members fourteen (14) days from the mailing of the deficiency notice to postmark a
7 written response to cure all deficiencies. The failure of a Class Member to cure all deficiencies in a
8 timely manner shall invalidate a request for exclusion and will not be subject to cure.

9 **4.2. Requests for Exclusion and Opt-Out Rights.** Class Members shall be given the
10 opportunity to opt out of the Settlement.

11 **4.2.1. Opt-Out Procedure.** Class Members may opt out of this Agreement by
12 mailing the Settlement Administrator a Request for Exclusion. A Request for Exclusion, to be valid,
13 must include the Class Member's name, current address, current telephone number, and the last four
14 digits of the Class Member's Social Security number. Any Request for Exclusion that does not include
15 all of the required information or that is not submitted in a timely manner will be deemed ineffective. If
16 there is a dispute regarding the timeliness or validity of a Request for Exclusion, then the Settlement
17 Administrator shall make the determination, after consultation with Class Counsel and Defense Counsel.

18 **4.2.2. Effect of Exclusion Through Opting Out.** Any Class Member who opts
19 out of this Agreement may not submit an Objection and shall not receive any Individual Settlement
20 Payment, and shall not be bound by the releases set forth in this Agreement. If a Class Member submits
21 both a Request for Exclusion and an Objection, then the Request for Exclusion will be valid and will
22 invalidate the Objection. Each Class Member who does not submit a timely, valid Request for
23 Exclusion shall be bound by the releases for which this Agreement provides.

24 **4.3. Objections.** Class Members who do not submit a Request for Exclusion shall be
25 entitled to object to the terms of the Agreement.

26 **4.3.1. Objection Procedures.** Any objection to this Agreement must contain
27 (1) the name and case number of this Actions (or reasonable portion thereof), (2) the full name, last four
28 digits of their social security number, and current address of the Class Member making the Objection,

1 (3) the specific reason(s) for the Objection, and (4) all evidence and supporting papers (including,
2 without limitation, all briefs, written evidence, and declarations) for the Court to consider. Class
3 Members who submit an Objection remain bound by this Agreement if it is approved by the Court.
4 Class Counsel shall file any and all Objections with the Court.

5 **4.4. Proof of Class Members' Responses.** At least thirty (30) calendar days prior to
6 the Fairness Hearing, the Settlement Administrator will prepare a declaration to submit to the Court
7 regarding the mailing of the Notice of Class Action Settlement, the inability to deliver any mailing due
8 to invalid addresses, the number of any Requests for Exclusion, and the number of any Objections and
9 the contents of the Objections.

10 **4.5. Binding Effect of Settlement.** Although a Class Member might not receive the
11 Notice of Class Action Settlement, and might not timely submit an Objection or a Request for Exclusion
12 because of inability to locate the Class Member's current address, that Class Member shall nonetheless
13 be bound by this Agreement.

14 **4.6. No Interference with Class Member Responses.** Each Party agrees not to
15 encourage any Class Member to submit an Objection or a Request for Exclusion and agrees not to
16 retaliate against any Class Member for participating or not participating in the settlement that this
17 Agreement contemplates.

18 **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

19 **5.1. Class Counsel Payment.** Class Counsel intend to request—and Defendant
20 agrees not to oppose—that the Court award a Class Counsel Payment, to be drawn from the Gross
21 Settlement Amount in the Settlement Fund, for attorneys' fees of Seven Hundred And Thirty Three
22 Thousand And Thirty Three Dollars And Thirty Three Cents (\$733,333.33), which represents one-third
23 of the Gross Settlement Amount and for costs incurred by Class Counsel in an amount up to Fifteen
24 Thousand Dollars (\$15,000.00). Defendant shall have no liability for any other attorneys' fees or costs
25 or any amount outside of the Settlement Fund. To the extent that the Court approves less than the
26 amount of Class Counsel Payment that Class Counsel request, the difference between the requested and
27 awarded amounts will be distributed to Settlement Class Members on a proportional basis.

28 **5.1.1. Approval of Class Counsel Payment Not Material.** The Court's

1 approval of the Class Counsel Payment in the amount requested is not a material term of this
2 Agreement. If the Court approves only a lesser amount, then the other terms of this Agreement shall
3 still remain in effect and the difference will remain part of the Net Settlement Amount.

4 **5.1.2. Timing of Class Counsel Payment.** The Settlement Administrator shall
5 issue the Class Counsel Payment within fifteen (15) business days after the Effective Date. Within ten
6 (10) business days after the Effective Date, Class Counsel shall transmit instructions to the Settlement
7 Administrator as to how any approved attorneys' fees and costs shall be paid. The Settlement
8 Administrator shall issue an appropriate Internal Revenue Service Form 1099 to Class Counsel. Class
9 Counsel shall be solely responsible for paying all applicable taxes on any Class Counsel payment and
10 shall indemnify Defendant from any claim or liability for taxes, penalties, or interest arising as a result
11 of the Class Counsel payment. In other words, if Defendant is made to pay for taxes owed by Class
12 Counsel, Class Counsel will reimburse Defendant for that payment.

13 **5.2. Class Representative Service Awards.** Class Counsel intends to request—and
14 Defendant agrees not to oppose—that the Court award Class Representative Service Awards to the Class
15 Representatives in an amount of Fifteen Thousand Dollars (\$15,000.00) each, to be drawn from the
16 Gross Settlement Amount. To the extent that the Court approves less than the amount of Class
17 Representative Service Award that Class Counsel request, the difference between the requested and
18 awarded amounts will be distributed to Settlement Class Members on a proportional basis.

19 **5.2.1. Class Representative Service Awards Not Material.** The Court's
20 approval of the Class Representative Service Awards is not a material term of this Agreement. If the
21 Court does not approve or approves only a lesser amount than that requested for a Class Representative
22 Service Award, then the other terms of this Agreement shall still remain in effect.

23 **5.2.2. Timing of Class Representative Service Awards.** The Settlement
24 Administrator shall pay any Class Representative Service Awards within fifteen (15) business days after
25 the Effective Date, and shall issue an IRS Form 1099 to the Class Representatives. The Class
26 Representatives shall be solely responsible for paying all applicable taxes on any Class Representative
27 Service Award and shall indemnify Defendant from any claim or liability for taxes, penalties, or interest
28 arising as a result of the Class Representative Service Awards. In other words, if Defendant is made to

1 pay for taxes owed by a Class Representative, the Class Representative(s) will reimburse Defendant for
2 that payment.

3 **5.3. Individual Settlement Payments.** Each Settlement Class Member shall be
4 entitled to an Individual Settlement Payment consisting of an equal, pro rata share of the Net Settlement
5 Amount.

6 **5.3.1. Timing of Individual Settlement Payments to Class Members.** The
7 Settlement Administrator shall issue Individual Settlement Payments no later than fifteen (15) business
8 days after the Effective Date. Any checks from this distribution that are not cashed within one-hundred-
9 eighty (180) calendar days from the date of the mailing of the checks shall be cancelled and said
10 cancellation shall not affect the validity of the Release of Claims provided for herein and the Settlement
11 Class Member shall be deemed to, nevertheless, be bound by the Release of Claims provided herein. As
12 soon as practicable after the 180-day check cashing period, the Settlement Administrator shall prepare
13 for the Parties a Final Report—a document summarizing relevant events to date and advising the total
14 dollar amount paid to Settlement Class Members, the status of any uncashed checks, and any amount
15 remaining in the Settlement Fund. The Parties will request the Court to order that all funds represented
16 by uncashed settlement checks, plus any accrued interest, be tendered to the parties' designated *cy pres*
17 recipient Central California Legal Services (www.centralcallegal.org).

18 **5.4. Number of Class Members.** Defendant represents that there are approximately
19 39,208 Class Members who are Settlement Class Members. In the event that at preliminary approval the
20 total number of Settlement Class Members increases by 10% or more, Defendant will have at its
21 discretion the ability to either (i) terminate the Agreement; or (ii) agree to increase the Settlement Fund
22 in an amount proportional to the excess number.

23 **5.5. Final Funding of Gross Settlement Amount.** By fourteen (14) business days
24 after the Effective Date, Defendant will deposit all of the Gross Settlement Amount into a Qualified
25 Settlement Fund established by the Settlement Administrator.

26 **6. RELEASES**

27 **6.1. Released Claims By Settlement Class Members and Class Representatives.**
28 By operation of the entry of the Final Approval Order and Judgment, and except as to rights this

1 Agreement creates, each Settlement Class Member who does not opt out of the Settlement shall release
2 Defendant and its predecessors, successors, subsidiaries, parent companies, other corporate affiliates,
3 and assigns, and each and all of their current or former subsidiaries, parents, affiliates, predecessors,
4 insurers, agents, servants, employees, successors, assigns, officers, officials, directors, attorneys,
5 personal representatives, registered representatives, executors, and shareholders, including their
6 respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the
7 successors of such plans, and those plans' respective current or former trustees and administrators,
8 agents, employees, and fiduciaries, and any other persons acting by, through, under, or in concert with
9 any of them, from any and all claims, debts, liabilities, demands, obligations, penalties, guarantees,
10 costs, expenses, attorneys' fees, interest, damages, actions or causes of action that such individuals have
11 or may have, or that have or could have arisen under the facts pled and alleged by Plaintiffs in the
12 operative complaint in this Action under: 15 U.S.C. § 1681b of the Fair Credit Reporting Act ("FCRA"),
13 15 U.S.C. §§ 1681d and 1681g of the FCRA, California Civil Code Section 1786, *et seq.* (the
14 Investigative Consumer Reporting Agencies Act ("ICRAA")), California Civil Code Section 1785, *et*
15 *seq.* (the Consumer Credit Reporting Agencies Act ("CCRAA")), California Business & Professions
16 Code section 17200, *et seq.* (the Unfair Competition Law ("UCL")), and similar claims under the law of
17 any other State.

18 **6.2. Released Claims by Class Representatives.** In addition to the Released Claims
19 set forth in Section 6.1 of this Agreement, the Class Representatives expressly release any and all
20 claims, known or unknown, they may have against Defendant (and other Released Parties), including
21 but not limited to the claims asserted in the Action, or any other claims that could have been asserted in
22 the Action, through and including the Effective Date. Excluded from this general release of claims are
23 those claims that Plaintiffs have pled and which, on the date this Agreement is executed, remain pending
24 in separate actions related to any wage and hour causes of action.

25 **6.3. General Release - Waiver of California Civil Code Section 1542.** As to all of
26 the Released Claims, the Class Representatives waive any and all rights provided by California Civil
27 Code Section 1542, which states:

28 **A general release does not extend to claims that the creditor or releasing party does**

1 **not know or suspect to exist in his or her favor at the time of executing the release and**
2 **that, if known by him or her, would have materially affected his or her settlement**
3 **with the debtor or released party.**

4 The releases shall extend through the date of Final Approval of the settlement.

5 **6.4. Settlement is Contingent Upon Release of Claims.** This Agreement is
6 conditioned upon the releases by the Settlement Class and Class Representatives as described herein,
7 and upon covenants by the Settlement Class and Class Representative that they will not participate as
8 plaintiffs, claimants, absent class members, or aggrieved employees in any actions, lawsuits,
9 proceedings, complaints, or charges in any court or before any administrative body asserting any claims
10 they have released under this Settlement.

11 **6.5. Inadmissibility of Settlement Documents.** The Parties agree that this Agreement
12 and all exhibits thereto shall be inadmissible in any proceeding, except an action or proceeding to
13 approve, interpret, or enforce this Agreement. The Parties agree that, to the extent permitted by law, this
14 Agreement will operate as a complete defense to—and may be used as the basis for an injunction
15 against—any action, suit, or other proceeding attempted in breach of this Agreement.

16 **7. SETTLEMENT APPROVAL PROCEDURE**

17 **7.1. Preliminary Approval.** Plaintiffs shall submit to the Court a Motion for
18 Preliminary Approval of Class Action Settlement. This motion shall seek an order to preliminarily
19 approve this Agreement according to the terms in this Agreement and provide for the Notice of Class
20 Action Settlement to be sent to Class Members as specified in this Agreement, substantially in the form
21 attached hereto as Exhibit A. This motion shall include the bases for demonstrating that settlement
22 amounts are reasonable in light of the facts and controlling authorities pertaining to the claims alleged.
23 The motion shall also be accompanied by a declaration of Class Counsel discussing the risks of
24 continued litigation and the decision that the best interests of the Class Members are served by the terms
25 of this Agreement. Defense counsel shall have the opportunity to review and comment on a draft of the
26 motion before it is filed.

27 **7.2. Final Approval.** Plaintiffs shall submit to the Court a Motion for Final Approval
28 Order, which shall include findings and orders (a) approving the Agreement, (b) adjudging the terms to

1 be fair, reasonable, and adequate, (c) reciting the Released Claims in full, (d) directing that the terms of
2 the Agreement be carried out, and (e) retaining jurisdiction to oversee enforcement of this Agreement
3 and the Court's orders. Defense counsel shall have the opportunity to review and comment on a draft of
4 the motion before it is filed.

5 **7.3. Motion for Class Counsel Payment.** Along with the Motion for Final Approval,
6 Class Counsel may file a motion for Court approval of an attorneys' fees and costs award in the amount
7 of Seven Hundred And Thirty Three Thousand And Thirty Three Dollars And Thirty Three Cents
8 (\$733,333.33), which represents up to one-third of the Gross Settlement Amount.

9 **7.4. Motion for Class Representative Service Awards.** Along with the Motion for
10 Final Approval, Class Counsel may file a motion for Court approval of Class Representative Service
11 Awards in the amounts of up to Fifteen Thousand Dollars (\$15,000.00) for each Class Representative.

12 **7.5. Timing of Judgment.** After the Final Approval Order, Plaintiffs shall request that
13 the Court (a) enter Judgment in accordance with this Agreement, without further fees or costs, and (b)
14 enter an order permanently enjoining all members of the Settlement Class from pursuing or seeking to
15 reopen claims that have been released by this Agreement.

16 **7.6. Appeal Rights.** Only an Objector has the right to appeal the Judgment, if the
17 Judgment is in accord with this Agreement. Each Class Representative and Class Counsel hereby waive
18 any right to appeal any judgment, ruling, or order in this Action, including, without limitation, any Final
19 Approval Order and any Judgment in the Action. This waiver includes all rights to any post-judgment
20 proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion
21 for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the
22 time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal,
23 appellate proceedings, or post-judgment proceedings.

24 **7.7. Schedule of contemplated events.** By way of review, the events contemplated by
25 the settlement approval procedure are as follows:

26 Deadline for Defendant to provide current class list 27 to Settlement Administrator	Within 21 calendar days of the later of preliminary approval of this Settlement or court approval of Settlement notice to the class
28 Deadline for Settlement Administrator to mail	Within 14 calendar days of receipt of the class

1	Notice of Class Action Settlement	data from Defendant
2	Settlement Administrator to report to Defense and Class Counsel on Requests for Exclusion, Objections and other results of class notice	30 calendar days from date that Notice of Class Action Settlement is mailed
3		
4		
5	Last day for class members to submit Requests for Exclusion or Objections	60 calendar days from date that Notice of Class Action Settlement is mailed or re-mailed
6		
7	Deadline for Class Counsel to move for Final Approval, attorneys' fees and costs, and Class Representative Service Awards	The Motion for Final Approval will either be filed concurrently or at a later date to be set by the Court.
8		
9	Hearing on Final Approval and on motion for Class Counsel Payment and Class Representative Service Award	To be set by the Court [the Parties request a date to be set that is at least 120 days after the Court grants preliminary approval of this Settlement or court approval of Settlement notice to the class]
10		
11		

12 **8. MISCELLANEOUS**

13 **8.1. Materiality of Terms.** Except as otherwise stated herein, each substantive term
14 of this Agreement is material and has been relied upon by the Parties in entering into this Agreement. If
15 the Court does not approve any substantive term, or if the Court effects a material change to the
16 Agreement—such as increasing any amount that Defendant must pay—then the entire Agreement will
17 be, at Defendant's sole discretion, void and unenforceable. Where this Agreement states that a term is
18 not material, then the Court's refusal to approve that term leaves all the other terms of the Agreement in
19 effect, and does not give Class Counsel or any Class Member any basis to abrogate this Agreement.

20 **8.2. No Tax Advice.** Neither Class Counsel nor Defense Counsel intend anything
21 contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this
22 Agreement be relied upon as such within the meaning of United States Treasury Department Circular
23 230 (31 C.F.R. Part 10, as amended) or otherwise.

24 **8.3. Language of Settlement Documents.** All Settlement-related documents to be
25 filed with the Court or sent to Class Members must be approved by all Parties before being filed or sent.

26 **8.4. Parties' Authority.** The signatories hereto represent that they are fully authorized
27 to bind the Parties to all the term of this Agreement. The Parties agree that Class Members are so
28 numerous that it is impossible or impractical to have each Class Member execute this Agreement. This

1 Agreement may be executed on behalf of Class Members by Class Representatives and by Class
2 Counsel.

3 **8.5. Entire Agreement.** This Agreement, which includes its Definitions, Recitals, and
4 all Exhibits attached hereto, constitutes the entire agreement on its subject matter, and supersedes all
5 prior and contemporaneous negotiations and understandings between the Parties.

6 **8.6. Counterparts.** This Agreement may be executed in counterparts, and each
7 counterpart signed and delivered shall be deemed an original, and when taken together with other signed
8 counterparts, signed and delivered shall constitute one signed Agreement, which shall be binding upon
9 and effective as to all Parties.

10 **8.7. Facsimile or Scanned Signatures.** A Party may sign and deliver this Agreement
11 by signing on the designated signature block and transmitting that signature page via facsimile or as an
12 attachment to an email to counsel for the other Party. Any such signature shall be deemed an original
13 for purposes of this Agreement and shall be binding upon the Party who transmits the signature page.

14 **8.8. Waivers and Modifications to Be in Writing.** No waiver, modification, or
15 amendment of this Agreement—whether purportedly made before or after the Court’s approval of this
16 Agreement—shall be valid unless it appears in a writing signed by or on behalf of all Parties, and then
17 shall be valid subject to any required Court approval. Any failure by any Party to insist upon the strict
18 performance by the other Party of any provision of this Agreement shall not be deemed a waiver of
19 future performance of the same provisions or of any other provision of this Agreement, and such Party,
20 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
21 any provision of this Agreement. The time periods and dates provided in this Agreement with respect to
22 giving of notices and hearings are subject to Court approval and modification by the Court or by written
23 stipulation of Class Counsel and Defense Counsel.

24 **8.9. Construction.** Each Party participated jointly in the drafting of this Agreement,
25 and its terms are not intended to be, and shall not be, construed against any party by virtue of
26 draftsmanship.

27 **8.9.1. Exhibits Incorporated by Reference.** This Agreement includes the terms
28 set forth in any attached exhibit.

1 **8.9.2. Headings.** The headings within this Agreement appear for convenience of
2 reference only and shall have no effect upon the construction or interpretation of any part of this
3 Agreement.

4 **8.9.3. Invalidity of Any Provision.** It is the intent of the parties that before
5 declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions
6 valid to the fullest extent possible so as to render all provisions of this Agreement enforceable.

7 **8.10. Duty to Cooperate.** Each Party, upon the request of another, agrees to perform
8 such acts and to execute and to deliver such documents as are reasonably necessary to carry out this
9 Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid unnecessary
10 Administrative Costs.

11 **8.11. No Prior Assignments or Undisclosed Liens.** The Class Representatives and the
12 Class Counsel represent that they have not assigned, transferred, conveyed, or otherwise disposed of any
13 Released Claim or claim to attorneys' fees and costs award to be paid under this Agreement. The Class
14 Representatives and the Class Counsel further represent and warrant that there are not any liens or
15 claims against any amount that Defendant is to pay under this Agreement. The Class Representatives
16 and Class Counsel agree to defend, to indemnify, and to hold Defendant harmless from any liability,
17 losses, claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach
18 of these representations or from any lien or assignment that should have been disclosed under this
19 provision.

20 **8.12. Waiver of Right to Request Exclusion by Class Representative.** The Class
21 Representatives, by signing this Agreement, agree not to request exclusion from the Settlement. The
22 Class Representatives, by signing this Agreement, further represent that they have no objection to the
23 terms of the Agreement and they believe the terms to be fair, reasonable and adequate.

24 **8.13. Confidential Information.** Class Counsel will destroy all confidential documents
25 and information provided by Defendant within 60 calendar days after the completion of the
26 administration of this Agreement. Class Counsel further agree that none of the information provided by
27 Defendant shall be used for any purpose other than prosecution of this Action.

28 **8.14. Publicity.** Neither Plaintiff nor Class Counsel will publicize the Settlement in any

1 way, except as follows: Nothing in this Agreement shall preclude Class Counsel from communicating
2 with members of the Settlement Class after preliminary approval, and after preliminary approval Class
3 Counsel is permitted to post court-filed documents on their website for viewing by the Settlement Class.


4 **8.15. Continuing Jurisdiction.** The Court shall retain jurisdiction over the
5 implementation of this Agreement as well as any matter arising out of, or related to, the implementation
6 of this Agreement. The Court shall not have jurisdiction to modify the terms of this Agreement without
7 the consent of all Parties.

8 **8.16. Disputes.** If the Parties dispute the interpretation of this Agreement, they shall
9 first attempt to resolve the dispute informally through good faith negotiations, and, if those efforts are
10 unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the mediator,
11 and all parties will bear their own fees and costs.

12 **8.17. Governing Law.** All terms of this Agreement shall be governed by and
13 interpreted according to California law.

14 **SO AGREED:**

15
16 Dated: 11-17-2021



Dale M. LaCroix, Sr.
Successor of the decedent
Plaintiff Dale M. LaCroix, Jr.

17
18
19
20 Dated: 12/03/2021



Plaintiff Alejandro Haro

21
22 Dated: _____

For Defendant Foster Farms, LLC

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2 with members of the Settlement Class after preliminary approval, and after preliminary approval Class
3 Counsel is permitted to post court-filed documents on their website for viewing by the Settlement Class.

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11 and all parties will bear their own fees and costs.

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13 interpreted according to California law.

14 **SO AGREED:**

15
16 Dated: _____

17 _____
18 Dale M. LaCroix, Sr.
19 Successor of the decedent
20 Plaintiff Dale M. LaCroix, Jr.

21
22 Dated: _____

23 _____
24 Plaintiff Alejandro Haro

25 Dated: 12/14/2021

26 _____
27 For Defendant Foster Farms, LLC

28 Dated: 12/14/2021

_____ *Maria Foster*
For Defendant Foster Poultry Farms

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Approval as to Form and Content by Counsel:

Dated: 11/16/2021

SETAREH LAW GROUP



Shaun Setareh
Attorneys for Plaintiffs
Dale M. LaCroix, Jr. and Alejandro Haro

Dated: _____

SEYFARTH SHAW LLP

Pamela Devata
Attorneys for Defendant
Foster Farms, LLC

1 Approval as to Form and Content by Counsel:

2
3 Dated: _____

SETAREH LAW GROUP

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6 _____
Shaun Setareh
Attorneys for Plaintiffs
Dale M. LaCroix, Jr. and Alejandro Haro

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8 Dated: December 17, 2021

SEYFARTH SHAW LLP

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11 _____
Pamela Devata
Attorneys for Defendant
Foster Farms, LLC