

## JOINT STIPULATION OF SETTLEMENT AND RELEASE

This Joint Stipulation of Settlement and Release (the “Settlement Agreement”) is entered into by and between Carmen Alvarez and Asher Guni (collectively, “Named Plaintiffs”), individually and on behalf of the collective of individuals that they seek to represent, Joie Dickerson (“Opt-In Plaintiff”), individually (together with Named Plaintiffs, “Plaintiffs”), and Defendants Chipotle Mexican Grill, Inc. and Chipotle Services, LLC (collectively, “Chipotle” or “Defendants”) (together with Named Plaintiffs, the “Parties”).

### RECITALS

**WHEREAS**, the Named Plaintiffs have filed a Complaint asserting claims on behalf of themselves and others similarly situated against Defendants for the alleged failure to pay overtime compensation under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, and—for Plaintiff Carmen Alvarez and similarly situated Apprentices employed by Chipotle in New Jersey—under New Jersey’s wage laws, N.J. Stat. § 34:11-56a1, *et seq.* (the “Litigation”); and

**WHEREAS**, the purpose of this Settlement Agreement is to settle fully and finally all Released Claims (as hereinafter defined) between Plaintiffs and Defendants including all claims asserted in the Litigation; and

**WHEREAS**, Defendants deny all of the allegations made by Plaintiffs in the Litigation and deny that they are liable or owe damages to anyone with respect to the alleged facts or causes of action asserted in the Litigation. Nonetheless, without admitting or conceding any liability or damages whatsoever, and without admitting or conceding the suitability of this Litigation for class or collective treatment, Defendants have agreed to settle the Litigation on the terms and conditions set forth in this Settlement Agreement so as to avoid the burden, expense, and uncertainty of continuing the Litigation; and

**WHEREAS**, Plaintiffs’ Counsel recognizes the uncertainty of the outcome and the risk of loss in any litigation, including this one. Plaintiffs’ Counsel have considered the cost and delay of continued proceedings necessary to prosecute the Litigation against Defendants through collective and class certification, discovery, dispositive motions, trial, and appeal. Plaintiffs’ Counsel believe the settlement set forth in this Settlement Agreement confers substantial benefits on members of the Participating Settlement Collective Members (as hereinafter defined) and is in the best interest of Named Plaintiffs and the other Participating Settlement Collective Members.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth in this Settlement Agreement, as well as the good and valuable consideration provided for herein, the Parties hereto agree to a full and complete settlement of the Litigation on the following terms and conditions:

#### 1. DEFINITIONS

The defined terms set forth in this Settlement Agreement have the meanings ascribed to them below.

- 1.1 “Acceptance Period” means the period during which an Eligible Settlement Collective Member can timely submit a Consent to Join Settlement and Claim Form to receive a Settlement Check as described in paragraph 2.17 below.
- 1.2 “Apprentice” means any employee of Chipotle whose held the Apprentice job title.
- 1.3 “Claim Bar Date” means the last day of the Acceptance Period in which any Eligible Settlement Collective Member may timely complete and submit a Consent to Join Settlement and Claim Form.
- 1.4 “Collective Counsel” or “Plaintiffs’ Counsel” means Outten & Golden LLP, Cohen Milstein Sellers & Toll PLLC, and Green Savits, LLC.
- 1.5 “Complaint” means the Amended Class and Collective Action Complaint filed in this Litigation, *Carmen Alvarez et al. v. Chipotle Mexican Grill, Inc. et al.*, Civil Action No. 2:17-cv-04095-KM-JBC (D.N.J. 2017), ECF No. 95.
- 1.6 “Consent to Join Settlement and Claim Form” means the Consent to Join Settlement and Claim Form, as approved by the Court in substantially the form of the document attached to this Settlement Agreement as **Exhibit A**, which an Eligible Settlement Collective Member, as defined below, must submit in order to participate in the Settlement and receive a Settlement Check.
- 1.7 “Court” means the United States District Court for the District of New Jersey.
- 1.8 “Defendants” or “Chipotle” means Chipotle Mexican Grill, Inc. and Chipotle Services, LLC.
- 1.9 “Defendants’ Counsel” means Martenson, Hasbrouck & Simon LLP and Messner Reeves LLP.
- 1.10 “Effective Date” means the later of the following dates:
  - (A) If there is no appeal of the Court’s Order Granting Approval of the Settlement, the day after the deadline for taking an appeal has passed; or
  - (B) If there is an appeal of the Court’s Order Granting Approval of the Settlement, the day after all appeals are resolved in favor of approval.
- 1.11 “Eligible Settlement Collective Members” or “Collective Members” mean any and all persons employed by the Defendants as an apprentice in New Jersey from June 7, 2014, through July 15, 2019, and in all other states, excluding California, New York, and Texas, from June 18, 2017, through August 25, 2020. The Parties agree that this settlement covers no more than 4,838 Eligible Settlement Collective Members who were identified in the pre-mediation data Defendants’ Counsel produced to Plaintiff’s Counsel on December 17, 2019, January 16, 2020, and August 31, 2020.

- 1.12 “Employer Payroll Taxes” means all taxes and withholdings from earned income an employer is required to make in order to make payments for FICA, FUTA, and SUTA obligations.
- 1.13 “Last Known Address” or “Last Known Addresses” means the most recently recorded personal mailing address(es) for an Eligible Settlement Collective Member as shown in Defendants’ records.
- 1.14 “Last Known E-mail Address” or “Last Known E-mail Addresses” means the most recently recorded personal e-mail address(es) for an Eligible Settlement Collective Member as shown in Defendants’ records.
- 1.15 “Last Known Telephone Number” or “Last Known Telephone Numbers” means the most recently recorded personal telephone number(s) for an Eligible Settlement Collective Member as shown in Defendants’ records.
- 1.16 “Litigation” or the “Action” means the claims asserted in the Amended Complaint filed in the case captioned, *Carmen Alvarez et al. v. Chipotle Mexican Grill, Inc. et al.*, Civil Action No. 2:17-cv-04095-KM-JBC (D.N.J. 2017).
- 1.17 “Maximum Gross Settlement Amount” refers to the amount of Fifteen Million and No/100ths Dollars (\$15,000,000.00), which is the maximum amount that Defendants have agreed to pay to fully resolve and settle this Litigation, including any and all amounts to be paid to Eligible Settlement Collective Members; any Court-approved Service Awards; any actual Employer Payroll Taxes associated with W-2 portions of claimed collective member funds; the cost of settlement administration; and any claim for attorneys’ fees and costs approved by the Court. Defendants will not be required to pay any more than the gross total of Fifteen Million and No/100ths Dollars (\$15,000,000.00).
- 1.18 “Named Plaintiffs” means Carmen Alvarez and Asher Guni.
- 1.19 “Opt-in Plaintiff” means Joie Dickerson.
- 1.20 “Order Granting Approval of Settlement” or “Approval Order” shall mean the order entered by the Court giving approval to the Settlement and this Settlement Agreement.
- 1.21 “Participating Settlement Collective Members” means each Collective Member as defined in Section 1.11, including any Named Plaintiff, who timely submits a Consent to Join Settlement and Claim Form to participate in the Settlement.
- 1.22 “Parties” collectively means the Named Plaintiffs and Defendants.
- 1.23 “Plaintiffs” means Carmen Alvarez, Asher Guni, and Joe Dickerson.
- 1.24 “Qualified Settlement Fund” means the account established by the Settlement Administrator for the settlement amount paid by Defendants. The QSF will be controlled by the Settlement Claims Administrator subject to the terms of this Settlement Agreement

and the Court's Order(s). Interest, if any, earned on any monies in the QSF will revert to Defendants and any taxes thereon will be paid by Defendants.

- 1.25** "Releasees" means Chipotle Mexican Grill, Inc. and Chipotle Services, LLC, and each and all of their affiliates, parents, subsidiaries, predecessors, successors, divisions, insurers, joint ventures and assigns, and each of its and these entities' past or present directors, officers, managers, employees, partners, members, principals, representatives, agents, servants, insurers, co-insurers, re-insurers, shareholders, attorneys, personal or legal representatives and any other successor, assign or legal representative.
- 1.26** "Released Claims" means all claims contained in the Complaint and any amendments thereto, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint and any amendments thereto, that accrued during their employment as Apprentices in New Jersey from June 7, 2014, and in any state other than New Jersey, California, New York, or Texas from June 18, 2017, through the date of settlement approval or August 25, 2021, whichever is earlier. However, notwithstanding the foregoing, no more than 260,471 collective member workweeks will be covered by the release. Claims of the opt-in plaintiffs being settled in the *Maxcimo Scott, et al., v. Chipotle*, No. 1:12-cv-8333-ALC-SN (S.D.N.Y 2012) case will not be released by this settlement.
- 1.27** "Revised Gross Settlement Amount" means the remainder of the Maximum Gross Settlement Amount after deductions/payments for: (1) the Settlement Administrator's fees and costs not to exceed \$52,000; (2) Court-approved attorneys' fees and costs for Plaintiffs' Counsel; and (3) Court-approved Service Awards to the Named Plaintiffs.
- 1.28** "Settlement Administrator" means A.B. Data, Ltd., which will provide notice to Eligible Settlement Collective Members, administer payment of claims submitted, calculate and pay all appropriate taxes and comply with all applicable tax reporting obligations including preparing and filing all applicable tax forms. The Settlement Administrator has been selected by Plaintiffs' Counsel in consultation with Defendants' Counsel.
- 1.29** "Settlement Agreement" means this agreement and the exhibits hereto, which the Parties understand and agree set forth all material terms and conditions of the Settlement between them, and which is subject to Court approval. "Settlement" means the settlement between the Parties embodied and contained in this Settlement Agreement.
- 1.30** "Settlement Checks" means checks issued to Participating Settlement Collective Members for their proportionate share of the Revised Gross Settlement Amount calculated in accordance with this Settlement Agreement.
- 1.31** "Settlement Notice" means the notice entitled "Notice of Settlement and Opportunity to Join," to be approved by the Court in a form substantially similar to the Notice attached hereto as **Exhibit B**.
- 1.32** "Settlement Website" means the website described in Section 2.9, maintained by the Settlement Administrator for Eligible Settlement Collective Members to obtain and submit their Consent to Join Settlement and Claim Forms.

## **2. APPROVAL AND NOTICE TO ELIGIBLE SETTLEMENT COLLECTIVE MEMBERS**

**2.1 Binding Agreement.** This Settlement Agreement is a binding agreement and contains all material agreed-upon terms for the Parties to seek a full and final settlement of the Litigation.

**2.2 Duties of the Settlement Administrator.** The Settlement Administrator will be responsible for:

- (A) locating Eligible Settlement Collective Members, including calling Eligible Settlement Collective Members, if necessary;
- (B) sending the Notices to Eligible Settlement Collective Members via mail, email, and text message, maintaining the Settlement Website, sending reminder postcards to Eligible Settlement Collective Members who have not submitted claim forms, and responding to Eligible Settlement Collective Members' inquiries;
- (C) resolving disputes relating to Eligible Settlement Collective Members' workweeks worked and settlement share amounts after notifying all parties of the dispute, calculating Eligible Settlement Collective Members' settlement share amounts, calculating and paying all appropriate taxes, including Employer Payroll Taxes and Participating Settlement Collective Members' withholdings from the W-2 portion and excluding taxes on any interest that reverts to Defendants, and complying with all applicable tax reporting obligations, including preparing and filing all applicable tax forms;
- (D) distributing Settlement Checks to Participating Settlement Collective Members and distributing Service Awards and Plaintiffs' attorneys' fees and costs;
- (E) reporting weekly on the status of the Settlement administration to the Parties, providing the submitted Consent to Join Settlement and Claim Forms to counsel for the Parties, and retaining and providing a copy of the Settlement Checks signed by the Participating Settlement Collective Members to Defendants' Counsel;
- (F) and performing such other duties as the Parties may jointly direct or as are specified herein.

**2.3** The Parties will have equal access to the Settlement Administrator and all information related to the administration of the Settlement, with the exception of contact information contained within the Collective List, as defined below. The contact information for Eligible Settlement Collective Members who have not returned claim forms shall be available only to the Settlement Administrator. The Settlement Administrator shall make available to Plaintiffs' Counsel the contact information for Participating Settlement Collective Members. The Settlement Administrator will provide weekly reports to counsel for the Parties regarding the status of the mailing of the Notices to Eligible Settlement Collective Members, the claims administration process, and distribution of Settlement Checks.

- 2.4** Defendants agree to cooperate with the Settlement Administrator, provide accurate information, to the extent reasonably available and necessary to calculate the Settlement Checks, and assist the Settlement Administrator in locating Eligible Settlement Collective Members. The Parties agree that it is their mutual goal to maximize participation in the settlement.
- 2.5** On February 26, 2021, Plaintiffs' Counsel shall file a Motion for Order Approving Settlement of Collective Action and Authorizing Notice of Settlement and Opportunity to Opt-In ("Approval Motion"). Plaintiffs' Counsel will provide Defendants with a draft of the Approval Motion for review and comment on or before February 17, 2021, and Defendants will provide Plaintiffs' Counsel with their comments within three (3) business days of receiving the draft Approval Motion. Defendants will not oppose the Approval Motion. With the Approval Motion, Plaintiffs' Counsel will also file the Settlement Agreement, Settlement Notice, and Consent to Join Settlement and Claim Form. The Consent Motion will ask the Court to: (a) issue and enter the Approval Order approving the Settlement as fair, adequate, and reasonable; (b) certify the collective for the purposes of settlement pursuant to 29 U.S.C. § 216(b); (c) approve the proposed Settlement Notice to be distributed to Eligible Settlement Collective Members and the Settlement Notice distribution process; (d) incorporate the terms of this Settlement; (e) approve Service Awards for Plaintiffs Alvarez, Guni, and Dickerson; (f) approve attorneys' fees and costs; and (f) enter judgment. The Parties will jointly ask the Court to convert the status conference, currently scheduled for March 9, 2020, to be a hearing on the Approval Motion.
- 2.6** Within fifteen (15) days of the Court's Approval Order, Defendants shall give the Settlement Administrator a list, in electronic form, of the names, Last Known Addresses, Last Known E-mail Addresses, Last Known Telephone Numbers, social security numbers, dates of employment for all Eligible Settlement Collective Members, including their last location worked and start dates and end dates ("Collective List"). The Settlement Administrator shall count the workweeks worked for Eligible Settlement Collective Members who worked in New Jersey from June 7, 2014, and for Eligible Settlement Members who worked elsewhere from June 18, 2017, through the date of settlement approval or August 25, 2021, whichever is earlier. Within ten (10) business days after receipt of the list, the Settlement Administrator shall notify Plaintiffs' Counsel of the number of Eligible Settlement Collective Members included on the Collective List, and the number of Eligible Settlement Collective Member workweeks contained on the Collective List. The settlement shall cover no more than 260,471 Eligible Settlement Collective Member workweeks. The Collective List is to be treated as confidential and used by Plaintiffs' Counsel and the Settlement Administrator only to effectuate settlement; the Collective List may not be copied, disseminated, or used for any other purpose.
- 2.7** Within thirty (30) days of receiving the Collective List from Defendants, the Settlement Administrator shall send via text message, email, and First Class United States mail, postage prepaid, the Court-approved Settlement Notice printed on white paper to all Eligible Settlement Collective Members using each individual's Last Known Telephone Number, Last Known E-mail Address and Last Known Address as provided by the

Defendant. Also within thirty (30) days of the Court's Approval Order, the Settlement Administrator shall establish a Settlement Website as described Section 2.9 from which Eligible Settlement Collective Members may obtain and submit their Consent to Join Settlement and Claim Forms. The Settlement Notice shall inform the Eligible Settlement Collective Members of their eligibility to participate in the Settlement and receive a Settlement Check by signing and returning an enclosed Consent to Join Settlement and Claim Form printed on colored paper, and inform them of their approximate Settlement Check amount. The Consent to Join Settlement and Claim Form may be returned by U.S. Mail, e-mail, fax, or online through the Settlement Website. The Settlement Claims Administrator shall provide a postage pre-paid return envelope with each Settlement Notice.

- 2.8** No other materials beside the Settlement Notice, Consent to Join Settlement and Claim Form, and the prepaid return envelope will be included in the Settlement Notice mailing. Notwithstanding the foregoing, the Settlement Administrator may provide replacement copies of the Notice of Settlement and Consent to Join Settlement and Claim Form to Eligible Settlement Collective Members via the Settlement Website discussed in Section 2.9, or by email or mail if requested by an Eligible Settlement Collective Member.
- 2.9** The Settlement Administrator shall maintain a website from the date that the Notice of Settlement is mailed until at least one hundred and eighty (180) days following mailing of the Settlement Checks. This website shall: (i) provide a brief summary of who is to receive the Settlement Notice and the purpose of the Settlement Notice; (ii) provide Eligible Settlement Collective Members with access to downloadable copies of the Settlement Notice and Consent to Join Settlement and Claim Form; (iii) provide a mechanism for Eligible Settlement Collective Members to submit Consent to Join Settlement and Claim Forms with an electronic signature; (iv) provide answers to "frequently asked questions" using language agreed to between the Parties; (v) provide contact information for the Settlement Administrator and Plaintiffs' Counsel; and (vi) provide a mechanism for Participating Settlement Collective Members to update their contact information and to request that a replacement Settlement Check be issued. The Settlement Administrator shall propose potential website URLs that are descriptive of the case, based on availability, which the Parties will jointly select and, upon selection, the Settlement Administrator will purchase. The parties shall agree as to the specific language and formatting of that website before the Settlement Administrator takes it "live," or open to the public.
- 2.10** Thirty (30) days after sending the original Notice of Settlement, the Settlement Administrator shall send, via First Class United States mail, postage prepaid, a "reminder" postcard, including a perforated, detachable, stamped copy of the Consent to Join Settlement and Claim Form, reminding Eligible Settlement Collective Members of their eligibility to participate in the Settlement by signing and returning the previously mailed Consent to Join Settlement and Claim Form by U.S. Mail, e-mail, fax, or online through the Settlement Website.
- 2.11** If any Settlement Notice is returned as undeliverable, the Settlement Administrator will perform a "skiptrace" and make reasonable efforts to find updated contact information

and re-send the notice using any new contact information obtained through the “skiptrace.” The Settlement Administrator will notify Plaintiffs’ Counsel and Defendants’ Counsel of any Settlement Notice sent to any Eligible Settlement Collective Member that is returned as undeliverable after the first distribution, as well as any such Settlement Notice returned as undeliverable after all subsequent distributions(s) as set forth in this Settlement Agreement. Eligible Settlement Collective Members for whom any re-mailing is sent shall have forty-five (45) days from the last re-mailing to submit their Consent to Join Settlement and Claim Form, or sixty (60) days from the initial mailing, whichever is later.

- 2.12** Defendants’ Counsel and Plaintiffs’ Counsel have the right to make inquiries and receive information from the Settlement Administrator related to the claims administration process, with the exception of requests for contact information for Eligible Settlement Collective Members from the Collective List who have not returned their claim forms. The Settlement Administrator will periodically update Plaintiffs’ Counsel and Defendants’ Counsel regarding returned mailings for which it is unable to obtain corrected addresses.
- 2.13** Plaintiffs’ Counsel may respond to inquiries from Eligible Settlement Collective Members about the Settlement or the Litigation.
- 2.14** Retention/Filing of Consent to Join Settlement and Claim Forms. The Settlement Administrator shall on a weekly basis compile and transmit to Defendants’ Counsel and Plaintiffs’ Counsel statistics on the number of individuals who have submitted Consent to Join Settlement and Claim Forms. At the end of the Acceptance Period, the Settlement Administrator shall provide copies of all Consent to Join Settlement and Claim Forms it has received to Plaintiffs’ Counsel and Defendants’ Counsel. The Settlement Administrator will retain a copy of all Consent to Join Settlement and Claim Forms which are received.
- 2.15** The Parties agree that all Participating Settlement Collective Members will be deemed to have filed their Consent to Join Settlement and Claim Forms with the Court on the date the Consent to Join Settlement and Claim Form is returned to the Settlement Administrator, provided that the Consent to Join Settlement and Claim Form is returned within the time period specified in Section 2.17.
- 2.16** No more than ten (10) days after the Claim Bar Date, the Settlement Administrator shall provide counsel for the Parties with a proof of mailing with regard to the mailing of the Settlement Notices, showing that the Settlement Notices were sent to the Last Known Telephone Number, Last Known E-Mail Address, and Last Known Address of all Eligible Settlement Collective Members. Participating Settlement Collective Members (Eligible Settlement Collective Members who submit a timely Consent to Join Settlement and Claim Form) will be deemed eligible for a settlement payment under the terms of this Settlement Agreement.
- 2.17** In order to be timely, a Consent to Joint Settlement Claim Form must be submitted, i.e. emailed, faxed, postmarked, or submitted through an online portal, no later than sixty (60)



days from the date the Settlement Administrator sends the Notice, unless the notice is returned undeliverable. In the event a notice is returned undeliverable, the Eligible Settlement Collective Members for whom any re-mailing is sent may timely submit a Consent to Joint Settlement Claim Form within forty-five (45) days from the last re-mailing to submit their Consent to Join Settlement and Claim Form, or sixty (60) days from the initial mailing, whichever is later. Additional time may be provided to an Eligible Settlement Collective Member who misses the Claim Bar Date if the Settlement Administrator determines that good cause was demonstrated by the Eligible Settlement Collective Member, or if Defendants otherwise agree, provided that in no event may the additional time exceed thirty (30) additional days after the Claim Bar Date.

- 2.18** Payments to all Participating Settlement Collective Members will be made by Settlement Check issued by the Settlement Administrator.
- 2.19** Effect of Failure to Approve Settlement. In the event that the Court fails to approve the Settlement Agreement in its entirety, except as to the provisions on Attorneys' Fees and Service Awards in Sections 3.2–3.3, the Parties jointly agree to (a) attempt to renegotiate the Settlement and seek Court approval of the renegotiated settlement and/or Settlement Agreement, and/or (b) seek reconsideration or appellate review of the decision denying approval of the Settlement and/or Settlement Agreement. In the event any reconsideration and/or appellate review is denied, or a mutually agreed-upon settlement modification is not approved, the Litigation will proceed on the date the reconsideration or appellate review is denied, or the Court issues an order failing to approve the settlement or modification, whichever is later, as if no Settlement Agreement had been entered. In such event, the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in this Litigation or in any other proceeding for any purpose.

### **3. SETTLEMENT TERMS**

#### **3.1 Settlement Payments**

- (A) Defendants agree to pay a Maximum Gross Settlement Amount of Fifteen Million and 0/100 Dollars (\$15,000,000.00), which shall fully resolve and satisfy: any and all amounts to be paid to Participating Settlement Collective Members; any Court-approved Service Awards as more fully described herein; any actual Employer Payroll Taxes associated with W-2 portions of claimed collective member funds; the cost of settlement administration; and any claim for attorneys' fees and costs approved by the Court. Defendants shall not be required to pay more than this amount.
- (B) No later than one-hundred and sixty-five (165) days after the Approval Order, Defendants shall deposit the Maximum Gross Settlement Amount into the Qualified Settlement Fund established by the Settlement Administrator.
- (C) Any portion of the Revised Gross Settlement Amount that is unclaimed by Eligible Settlement Collective Members who do not timely submit a Consent to Join

Settlement and Claim Form or Participating Collective Members who fail to cash their Settlement Check within one-hundred and eighty (180) days after the mailing of their Settlement Check, or that otherwise remains in the Qualified Settlement Fund or under the control of the Settlement Administrator upon the final accounting of the settlement fund, including but not limited to interest accrued on the Qualified Settlement Fund, shall be returned to Defendants. The Settlement Administrator shall mail out reminder postcards via email and First Class United States Mail within sixty (60) days after the mailing of the Settlement Checks, reminding Participating Settlement Collective Members who have not yet done so to negotiate their checks prior to the one-hundred and eighty (180) day deadline. The final accounting shall occur no earlier than six (6) months, and no later than nine (9) months after the Settlement Checks have been mailed, and all amounts due to be returned to Defendants shall be returned within five (5) days after completion of the final accounting.

### **3.2 Settlement Amounts Payable as Attorneys' Fees and Costs.**

- (A) In their motion seeking approval of the Settlement, Plaintiffs' Counsel may ask that a payment of up to one-third of the Maximum Gross Settlement Amount be approved as an award of attorneys' fees. In addition, Plaintiffs' Counsel may seek reimbursement of reasonable litigation costs Plaintiffs have incurred from the Maximum Gross Settlement Amount. Plaintiffs' fee and cost application will include, but is not limited to outside counsel fees paid out-of-pocket in *Nevada v. U.S. Dep't of Labor*, No. 16 Civ. 731 (E.D. Tex.), and *Texas v. U.S. Dep't of Labor*, No. 18 40246 (5th Cir.), which the parties agree were related to this Litigation. Payment of those amounts shall constitute full satisfaction of any claim for attorneys' fees and/or costs, and Plaintiffs agree that they shall not seek, nor be entitled to, any additional attorneys' fees and/or costs under any theory or from any source, incurred in relation to this Litigation. Defendants will not oppose such applications.
- (B) Plaintiffs' application for payment of attorneys' fees and costs to Plaintiffs' Counsel will be considered separately from this settlement agreement. The parties agree that the Court's ruling on the application for attorneys' fees and costs should not have any effect on the validity of the terms of this Settlement Agreement. In the event that the Court (or any appellate court) awards attorneys' fees and costs in amounts less than those requested, only the awarded amounts will be paid and shall constitute full satisfaction of the obligations of this Section and full payment hereunder.

### **3.3 Service Awards to Certain Plaintiffs.**

- (A) The parties agree that Plaintiffs Carmen Alvarez, Asher Guni, and Joie Dickerson may each seek and be granted service awards in recognition of the valuable and service they have provided to this case and the Collective Members ("Service Awards"). Service Awards may be granted in the following amounts: up to \$30,000 to Named Plaintiff Carmen Alvarez, up to \$10,000 to Named Plaintiff Asher Guni,

and up to \$2,500 to Opt-In Plaintiff Joie Dickerson. Defendants will not oppose these applications.

- (B) The Court's ruling on the application for these Service Awards will not affect the validity of this Settlement Agreement or any of its terms.

### **3.4 Distribution of Payments.**

- (A) No later than five (5) days after Defendants have deposited the Maximum Gross Settlement Amount into the Qualified Settlement Fund, the Settlement Administrator will distribute any Court-approved Service Awards to Named Plaintiffs Carmen Alvarez, Asher Guni, and Joie Dickerson via Federal Express and any Court-approved attorneys' fees and costs to Plaintiffs' Counsel via wire transfer. Such distribution shall not be made unless and until Chipotle has received an executed general release as required by Section 4.3 from the intended Service Award recipient.
- (B) The Settlement Administrator shall mail the Settlement Checks payable to Participating Settlement Collective Members to Participating Settlement Collective Members within ten (10) days after Defendants have deposited the Maximum Gross Settlement Amount into the Qualified Settlement Fund. The Settlement Administrator shall disburse the Revised Gross Settlement Amount to the Participating Settlement Collective Members, less applicable taxes and withholdings, by mailing the Settlement Checks by Certified United States Mail.
- (C) The allocation of the Revised Gross Settlement Amount will be made among the Eligible Settlement Collective Members and paid to each of them in Settlement Checks. The estimated and actual share of the Revised Gross Settlement Amount to be communicated and distributed to each Eligible Settlement Collective Member will be determined by the Settlement Administrator pursuant to the following formulas:
  - (1) Each Eligible Settlement Collective Member, including the Named Plaintiffs and Opt-In Plaintiff, shall be assigned one point for each week worked as an Apprentice from June 7, 2014, for Eligible Settlement Collective Member who worked in New Jersey, and from June 18, 2017, for Eligible Settlement Collective Member who worked elsewhere, through the date of settlement approval or August 25, 2021, whichever is earlier. The settlement shall cover no more than 260,471 Eligible Settlement Collective Member workweeks.
  - (2) To calculate each Eligible Settlement Collective Member's estimated proportionate share for the Notice:
    - (a) All points assigned to each Eligible Settlement Collective Member will be totaled and constitute the "Denominator";

- (b) The number of points allocated to each Eligible Settlement Collective Member will be divided by the Denominator to obtain each Eligible Settlement Collective Member's estimated proportionate share of the Revised Gross Settlement Amount;
    - (c) Each Eligible Settlement Collective Member's estimated proportionate share of the Revised Gross Settlement Amount will be multiplied by the Revised Gross Settlement Amount to determine the total estimated amount payable to each Eligible Settlement Collective Member, after funds are withheld to pay estimated Employer Payroll Taxes.
  - (3) To calculate each Participating Settlement Collective Member's actual proportionate share:
    - (a) All points assigned to each Eligible Settlement Collective Member will be totaled and constitute the "Denominator";
    - (b) The number of points allocated to each Eligible Settlement Collective Member will be divided by the Denominator to obtain each Eligible Settlement Collective Member's proportionate share of the Revised Gross Settlement Amount;
    - (c) Each Participating Settlement Collective Member's proportionate share of the Revised Gross Settlement Amount will be multiplied by the Revised Gross Settlement Amount to determine the total amount actually payable to each Participating Settlement Collective Member, after funds are withheld to pay actual Employer Payroll Taxes on funds claimed by Participating Settlement Collective Members.
- (D) Characterization of Payments.
  - (1) The Parties agree that, based on their assessment of the claims and nature of the monetary payments made to resolve them, half the funds payable to the Participating Settlement Collective Members are regarded as the payment of back wages and half are regarded as satisfaction of the claims to interest, any applicable penalties, liquidated damages, and other non-wage relief.
  - (2) Payments treated as back wages shall be made net of all applicable employment taxes, including, without limitation, federal, state and local income tax withholding and the employee share of the FICA tax, and shall be reported to the Internal Revenue Service ("IRS") and the payee under the payee's name and Social Security Number on an IRS Form W-2. Payments treated as interest and/or liquidated damages shall be made without withholding and shall be reported to the IRS and the payee, to the extent required by law, under the payee's name and Social Security Number on an

IRS Form 1099. Payments of attorneys' fees and costs pursuant to Section 3.2 shall be made without withholding and shall be reported to the IRS and to each payee under the payee's name and taxpayer identification number, which each such payee shall provide for this purpose, on an IRS Form 1099. Any service payment pursuant to Section 3.3 shall be reported as the Settlement Administrator deems appropriate.

- (3) The Settlement Administrator shall calculate the actual of Employer Payroll Taxes, with respect to the amounts treated as wages pursuant to Section 3.4(D)(1), to be paid from the Revised Gross Settlement Amount on behalf of Defendants. The Settlement Administrator shall pay the amount necessary within sixty (60) days of the Claim Bar Date or whenever due under applicable law, whichever is sooner.
  - (4) The payment of any taxes that may be due on distributions made to the Participating Settlement Collective Members for wages, interest, liquidated damages, and Service Awards shall be the sole responsibility of the individual Participating Settlement Collective Members receiving the payments. Neither Defendants' Counsel nor Plaintiffs' Counsel make any representations about the tax treatment or the consequences therefrom of these funds.
- (E) **Deadline for Cashing Settlement Checks; Effect of Not Cashing Settlement Checks.**
- (1) Settlement Checks issued pursuant to this Settlement Agreement shall expire one-hundred and eighty (180) days after they are postmarked. If the check has not been cashed by any Participating Settlement Collective Member within sixty (60) days after it was postmarked, the Settlement Administrator shall send a letter or postcard to the Participating Settlement Collective Member reminding them to cash their check and inquiring whether they require a replacement check, in which case the Settlement Administrator shall follow the procedures set forth below to issue a stop payment order and issue a new check. At the close of the one-hundred and eighty (180) day period, the Settlement Administrator will issue a stop-payment order on all uncashed or returned checks. If a check is returned as undeliverable, the Settlement Administrator shall follow the procedures set forth in Section 2.11 regarding returned notice packets. After following the foregoing procedures, the Settlement Administrator shall issue a stop-payment order on all remaining uncashed or returned checks. The amount of all checks which remain uncashed after all of the procedures set forth in this Settlement Agreement are completed shall be returned to the Defendant.
  - (2) In the event a Participating Settlement Collective Member reports a lost or destroyed check within the applicable one-hundred and eighty (180) day check-cashing period, the Settlement Administrator shall issue a stop

payment order on the original check and issue a new check to such Participating Settlement Collective Member.

#### **4. RELEASE OF CLAIMS**

- 4.1** By returning a Consent to Join Settlement and Claim Form and receiving a Settlement Check, whether it is cashed or not, Named Plaintiffs, Opt-In Plaintiff, and all Participating Settlement Collective Members forever and fully release Defendants from all Released Claims.
- 4.2** Any Eligible Settlement Collective Member who does not timely return a Consent to Join Settlement and Claim Form will not receive a settlement payment and will not be bound by any release of claims.
- 4.3** In addition to the Released Claims, Plaintiffs Carmen Alvarez, Asher Guni, and Joie Dickerson will provide a full, general release of all claims (including known and unknown claims) against Defendants.
- 4.4** By signing the Settlement Agreement, Plaintiffs Carmen Alvarez, Asher Guni, and Joie Dickerson become parties to the Settlement Agreement and do not have to return a Consent to Join Settlement and Claim Form to receive payment under the Settlement Agreement.
- 4.5** Claims of the opt-in plaintiffs being settled in the *Maxcimo Scott, et al., v. Chipotle*, No. 1:12-cv-8333-ALC-SN (S.D.N.Y 2012) case will not be released by this settlement.
- 4.6** By entering into this Settlement Agreement, Defendants in no way admit any violation of law or any liability whatsoever to Named Plaintiffs and/or the Collective Members, individually or collectively and expressly deny any and all such liability. Likewise, by entering into this Settlement Agreement, Defendants in no way admit to the suitability of this case for class or collective action litigation other than for purposes of settlement. Rather, Defendants enter into this Settlement Agreement to avoid further protracted litigation and to resolve and settle all disputes with Plaintiffs and the Collective Members. Settlement of the Litigation, negotiation and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement Agreement or the settlement: (a) are not, shall not be deemed to be, and may not be used as an admission or evidence of any wrongdoing or liability on the part of Defendants or of the truth of any of the factual allegations in any and all complaints filed in the Litigation; and (b) are not, shall not be deemed to be, and may not be used as an admission or evidence of fault or omission on the part of Defendants in any civil, criminal, administrative or arbitral proceeding. The Parties understand and agree that this Settlement Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except in an action or proceeding to approve, interpret, or enforce the terms of this Settlement Agreement.
- 4.7** Except as provided in this Settlement Agreement, upon payment of the attorneys' fees, and costs approved by the Court, Plaintiffs' Counsel, the Named Plaintiffs, and the Collective Members, hereby irrevocably and unconditionally release, acquit, and forever

discharge any claim that he, she, or they may have against Defendants for attorneys' fees or costs associated with Plaintiffs' Counsel's representation of Plaintiffs' or Collective Members or any other related parties in the Litigation. Plaintiffs' Counsel further understands and agrees that any fee payments approved by the Court will be the full, final and complete payment of all attorneys' fees, expenses, and costs associated with Plaintiffs' Counsel's representation in the Litigation and the related Litigation described in Section 3.2.

## **5. CONFIDENTIALITY**

- 5.1** The Parties agree to maintain the confidentiality of the details of this Settlement Agreement before the motion seeking approval of the settlement is filed, which will be on February 26, 2021. Plaintiffs and Plaintiffs' Counsel agree that they will not issue, send or post, or cause to be issued, sent or posted, any press release, posting, e-mail, or other verbal or written communication to any electronic, print, or digital media, blogs, or social networking sites, including but not limited to Facebook, LinkedIn, SnapChat, Instagram, and Twitter, (collectively, the "Media") regarding this Litigation, the Parties' settlement discussions, the existence and/or terms of the settlement, and/or the facts and events leading up to same. During the period before the Approval Motion is filed, if contacted by any member of the Media or any other individuals through any of the Media, Named Plaintiffs and/or Plaintiffs' Counsel will simply state that the litigation has been resolved and will provide no other comment whatsoever. This provision does not prohibit the parties, or either of them, from notifying the Court of the proposed settlement agreement prior to the filing of the Approval Motion. After the Approval Motion is filed, if contacted by any member of the Media or any other individuals through any of the Media, Named Plaintiffs and/or Plaintiffs' Counsel are permitted to state only that they are pleased with the settlement, that they think it provides real relief for Plaintiffs' Counsels' clients and members of the collective, and they are pleased they could bring the case to a resolution without the need for further litigation.

## **6. PARTIES' AUTHORITY**

- 6.1** The Parties hereby represent that the signatory executing this Settlement Agreement on behalf of such Party is fully authorized to execute this Settlement Agreement on behalf of such Party and to bind such Party hereto to the terms and conditions hereof.

## **7. MUTUAL COOPERATION**

- 7.1** The Parties agree to reasonably cooperate with each other and to take all steps necessary and appropriate to obtain the Court's approval of this Settlement Agreement and all of its terms and to effectuate the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their commercially reasonable efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. After execution of this Settlement Agreement, Plaintiffs'

Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the Court's approval of this Settlement Agreement.

## **8. INTERPRETATION AND ENFORCEMENT/MISCELLANEOUS TERMS**

- 8.1** Further Acts. Each Party, upon the request of any other Party, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Settlement Agreement.
- 8.2** No Assignment. Plaintiffs' Counsel and Named Plaintiffs represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation, or any related action, and any attempt to do so shall be of no force or effect.
- 8.3** Entire Agreement. This Settlement Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Settlement Agreement.
- 8.4** Binding Effect. This Settlement Agreement shall be binding upon the Parties and, with respect to Plaintiffs, their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys and assigns.
- 8.5** Arms' Length Transaction; Materiality of Terms. The Parties have negotiated all the terms and conditions of this Settlement Agreement at arms' length. All terms and conditions of this Settlement Agreement in the exact form set forth in this Settlement Agreement are material to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement, unless otherwise expressly stated.
- 8.6** Captions. The captions or headings of the Sections and paragraphs of this Settlement Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Settlement Agreement.
- 8.7** Construction. The determination of the terms and conditions of this Settlement Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Settlement Agreement, and therefore the terms and conditions of this Settlement Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.
- 8.8** Blue Penciling/Severability. If any provision of this Settlement Agreement, other than the release of claims set forth in Section 4, is held by a court of competent jurisdiction to be void, voidable, unlawful, or unenforceable, the remaining portions of this Settlement Agreement will remain in full force and effect. If the release of claims in Section 4 is found to be void, voidable, unlawful, or unenforceable, Defendants' obligations herein, including but not limited to their obligation to fund the settlement as set forth in Section 3.1, shall be entirely null, void and of no effect.



- 8.9** **Governing Law.** This Settlement Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of New Jersey, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.
- 8.10** **Continuing Jurisdiction.** The Court shall retain jurisdiction over the interpretation and implementation of this Settlement Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Settlement Agreement and of the Settlement contemplated thereby.
- 8.11** **Waivers and Modifications. to Be in Writing.** No waiver, modification or amendment of the terms of this Settlement Agreement, whether purportedly made before or after the Court's approval of this Settlement Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties, and then only to the extent set forth in such written waiver, modification or amendment with any required Court approval. Any failure by any party to insist upon the strict performance by the other party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Settlement Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement Agreement.
- 8.12** **Counterparts.** The Parties may execute this Settlement Agreement in counterparts, and execution in counterparts shall have the same force and effect as if all Parties had signed the same original instrument.
- 8.13** **Facsimile and Email Signatures.** Any party may execute this Settlement Agreement by causing its counsel to sign on the designated signature block below and transmitting that signature page via facsimile or email to counsel for the other party. An electronic signature transmitted via an electronic signature platform such as DocuSign shall be effective and binding. Any signature made and transmitted by facsimile or email for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement and shall be binding upon the party whose counsel transmits the signature page by facsimile or email.
- 8.14** **Signatories.** This Settlement Agreement is valid and binding if signed by Defendants' authorized representative and any one of the Named Plaintiffs.

[Signatures on Following Page.]

**WE AGREE TO THESE TERMS,**

DATED: February 18, 2021

**Plaintiff Carmen Alvarez**

By: DocuSigned by:  
  
EPDE1F010AEDM0...

DATED: February 17, 2021

**Plaintiff Asher Guni**

By: DocuSigned by:  
  
4FA18D00F0C8F...

DATED: February 17, 2021

**Plaintiff Joie Dickerson**

By: DocuSigned by:  
  
8237AF030245...

DATED: February \_\_, 2021

**Chipotle Mexican Grill, Inc.**

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

DATED: February \_\_, 2021

**Chipotle Services, LLC**

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

**WE AGREE TO THESE TERMS,**

DATED: February \_\_, 2021

**Plaintiff Carmen Alvarez**

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

DATED: February \_\_, 2021

**Plaintiff Asher Guni**

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

DATED: February \_\_, 2021

**Plaintiff Joie Dickerson**

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

DATED: February 18, 2021

**Chipotle Mexican Grill, Inc.**

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

DATED: February 18, 2021

**Chipotle Services, LLC**

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