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Attorneys for Plaintiff NICOLAS NEUTALL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

NICOLAS NEUTALL, an individual, on behalf
of himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

URBAN ALCHEMY, a California
Corporation; and DOES 1-50, Inclusive,
Defendants.

Case No. CGC-20-588622

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: March 7, 2023

Hearing Time: 9:30 a.m.

Department: 302

Trial Date: Not Set

Action Filed: December 23, 2020

1 This matter having come before the Superior Court of the State of California, in and for the
2 County of San Francisco, at 9:30 a.m. on March 7, 2023, with Jean-Claude Lapuyade, Esq., of the
3 JCL Law Firm, APC, and Shani O. Zakay, Esq. of the Zakay Law Group, APLC, as counsel for
4 Plaintiff NICOLAS NEUTALL (“Plaintiff”) and Messner Reeves LLP, appearing for defendant
5 URBAN ALCHEMY (hereinafter collectively “Defendant”). Plaintiff’s Motion for Preliminary
6 Approval of Class Action Settlement is unopposed by Defendant. The Court, having carefully
7 considered the briefs, argument of counsel and all the matters presented to the Court, and good
8 cause appearing, hereby GRANTS Plaintiff’s Motion for Preliminary Approval of Class Action
9 Settlement.

10 **IT IS HEREBY ORDERED:**

11 1. The Court preliminarily approves the Stipulation of Settlement of Class and PAGA
12 Action Claims and Release of Claims (“Settlement Agreement” or “Agreement”) a true and correct
13 copy of which is attached hereto as **Exhibit “1”**. This is based on the Court’s determination that
14 the Settlement Agreement is within the range of possible final approval, pursuant to the provisions
15 of Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

16 2. This Order incorporates by reference the definitions in the Agreement, and all terms
17 defined therein shall have the same meaning in this Order as set forth in the Agreement.

18 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
19 Defendant shall pay is Nine Hundred Eighty Thousand Dollars and Zero Cents (\$980,000.00). It
20 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate,
21 and reasonable as to the entire Class when balanced against the probable outcome of further
22 litigation relating to certification, liability, and damages issues. It further appears that investigation
23 and research have been conducted such that counsel for the Parties are able to reasonably evaluate
24 their respective positions. It further appears to the Court that settlement at this time will avoid
25 substantial additional costs by all Parties, as well as avoid the delay and risks that would be
26 presented by the further prosecution of the litigation. It further appears that the Settlement has been
27 reached as the result of intensive, serious, and non-collusive arms-length negotiations.

1 4. The Court preliminarily finds that the Settlement appears to be within the range of
2 reasonableness of a settlement that could ultimately be given final approval by this Court. The
3 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
4 preliminarily finds that the monetary settlement awards made available to the Settlement Class are
5 fair, adequate, and reasonable when balanced against the probable outcome of further litigation
6 relating to certification, liability, and damages issues.

7 5. The Agreement specifies for a Class Counsel Award in the amount of up-to one-
8 third of the Gross Settlement Amount for attorneys' fees, currently estimated at \$326,666.66 *and*
9 an award of litigation expenses incurred not to exceed \$30,000.00, and proposed Class
10 Representative Service Award to the Class Representative, Nicolas Neutall, in an amount not to
11 exceed \$10,000.00. While these awards appear to be within the range of reasonableness, the Court
12 will not approve the Class Counsel Award or Class Representative Service Award until the Final
13 Approval Hearing.

14 6. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification
15 of a class for settlement purposes only. This stipulation will not be deemed admissible in this, or
16 any other proceeding should this Settlement not become final. For settlement purposes only, the
17 Court conditionally certifies the following Class:

18 “all non-exempt employees who are or previously were employed
19 by Urban Alchemy and performed work in California during the
20 period of December 23, 2016 to July 1, 2022”

21 7. The Court concludes that, for settlement purposes only, the Class meets the
22 requirements for certification under section 382 of the California Code of Civil Procedure in that:
23 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
24 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
25 community of interest amongst the Class with respect to the subject matter of the litigation; (c) the
26 claims of the Class Representative are typical of the claims of the Class; (d) the Class
27 Representative will fairly and adequately protect the interests of the Class; (e) a class action is
28 superior to other available methods for the efficient adjudication of this controversy; and (f) Class

1 Counsel are qualified to act as counsel for the Class Representative in his individual capacity and
2 as the representative of the Class Members.

3 8. For settlement purposes only, the Court provisionally appoints plaintiff Nicolas
4 Neutall as the representative of the Settlement Class.

5 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,
6 A.P.C. and Shani Zakay of the Zakay Law Group, APLC, as Class Counsel for the Settlement
7 Class.

8 10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency
9 of Class and Representative Action Settlement (“Class Notice”) attached as Exhibit “A” to the
10 Agreement. The Court finds that the notice appears to fully and accurately inform the Class of all
11 material elements of the proposed Settlement, including right of any Class Member to be excluded
12 from the Class by submitting a written request for exclusion, and of each Class Member’s right
13 and opportunity to object to the Settlement. The Court further finds that the distribution of the
14 notice substantially in the manner and form set forth in the Agreement and this Order meets the
15 requirements of due process, is the most reasonable notice under the circumstances, and shall
16 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
17 the notices by first class mail, pursuant to the terms set forth in the Agreement.

18 11. The Court hereby appoints ILYM Group, Inc., as Settlement Administrator. Within
19 ten (10) business days of this order, Defendant shall provide, to the Settlement Administrator the
20 Class Data, including information regarding Class Members that Defendant will in good faith
21 compile from their records, including each Settlement Class Member’s full name; last known
22 address; Social Security Number; dates of employment during the Class Period. Within fourteen
23 (14) calendar days after receiving the Class Data from Defendant, the Settlement Administrator
24 shall mail the Class Notice to all identified, potential members of the Class via first class U.S. Mail
25 using the most current mailing address information available.

26 12. The Court hereby preliminarily approves the proposed procedure for exclusion from
27 the Settlement. Any Class Member may individually choose to opt out of and be excluded from
28 the Settlement as provided in the Notice by following the instructions for requesting exclusion

1 from the Settlement of the Released Claims that are set forth in the Notice. All requests for
2 exclusion must be postmarked or received by the Response Deadline which is forty-five (45)
3 calendar days after the date the Class Notice is mailed to the Class Members or, in the case of a re-
4 mailed Notice, not more than fifteen (15) calendar days after the original Response Deadline. Any
5 such person who chooses to opt out of and be excluded from the Settlement will not be entitled to
6 an Individual Settlement Payment under the Settlement and will not be bound by the Settlement,
7 or have any right to object, appeal or comment thereon. Settlement Class members who have not
8 requested exclusion shall be bound by all determinations of the Court, the Agreement and
9 Judgment. A request for exclusion may only opt out that particular individual, and any attempt to
10 affect an opt-out of a group, class, or subclass of individuals is not permitted and will be deemed
11 invalid.

12 13. Any Class Member who has not opted out may appear at the final approval hearing
13 and may object or express the Member's views regarding the Settlement and may present evidence
14 and file briefs or other papers that may be proper and relevant to the issues to be heard and
15 determined by the Court as provided in the Notice. Class Members will have forty-five (45) days
16 from the date the Settlement Administrator mails the Class Notice to postmark their written
17 objections to the Settlement Administrator.

18 14. A final approval hearing shall be held before this Court on _____
19 _____at _____ AM in Department ____ of the San Francisco County Superior Court to determine
20 all necessary matters concerning the Settlement, including: whether the proposed settlement of the
21 Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable
22 and should be finally approved by the Court; whether an Order Granting Final Approval should be
23 entered herein; whether the plan of allocation contained in the Agreement should be approved as
24 fair, adequate and reasonable to the Class; and to finally approve the Class Counsel Award, Class
25 Representative Service Award, and the Settlement Administration Costs. All papers in support of
26 the motion for final approval and the motion for Class Counsel Award and Class Representative
27 Enhancement Award shall be filed with the Court and served on all counsel no later than sixteen
28 (16) court days before the hearing.

15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall be construed as a concession or admission by Defendant in any way, and shall not be used as evidence of, or used against Defendant as, an admission or indication in any way, including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

16. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement. In such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

17. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Settlement Class and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED.

DATED:

JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

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Attorneys for Plaintiff NICOLAS NEUTALL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

NICOLAS NEUTALL, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiff,

v.

URBAN ALCHEMY, a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No.: CGC-20-588622

[Action Filed December 23, 2020]

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

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between Plaintiff NICOLAS NEUTALL (hereinafter “Plaintiff”), an individual,
3 on behalf of the Settlement Class, and in his representative capacity on behalf of the State of
4 California and the Aggrieved Employees, and Defendant URBAN ALCHEMY. (hereinafter
5 “Defendant”):

6 **I. DEFINITIONS**

- 7 A. “Action” shall mean the putative class action lawsuit designated *Neutall v. Urban*
8 *Alchemy, et al.*, San Francisco County Superior Court, Case No. CGC-20-588622,
9 filed December 23, 2020.
- 10 B. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
11 Class and PAGA Action and Release of Claims.
- 12 C. “Attorneys’ Expenses” means the award of expenses that the Court authorizes to be
13 paid to Class Counsel for the expenses they have incurred of up to \$30,000.00.
- 14 D. “Attorneys’ Fees” means the award of fees that the Court authorizes to be paid to
15 Class Counsel for the services they have rendered to Plaintiff and the Settlement
16 Class in the Action, currently not to exceed one-third of the Gross Settlement
17 Amount currently estimated to be \$326,666.66 out of \$980,000.00. Attorneys’ fees
18 will be divided between Class Counsel as follows (50% to JCL Law Firm, APC, and
19 50% to Zakay Law Group, APLC).
- 20 E. “California Class Members” or the “California Class” means all non-exempt
21 employees who are or previously were employed by Urban Alchemy and performed
22 work in California during the period of December 23, 2016 to July 1, 2022.
- 23 F. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and
24 Shani Zakay of Zakay Law Group, APLC.
- 25 G. “Class Data” means information regarding Class Members that Defendant will in
26 good faith compile from its records and provide to the Settlement Administrator. It
27 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
28

Member's full name; last known address; Social Security Number; start dates and end dates of employment.

H. "Class Period" means the period from December 23, 2016 to July 1, 2022.

I. "Class Representative" shall mean plaintiff Nicolas Neutall.

J. "Court" means the Superior Court for the State of California, County of San Francisco currently presiding over the Action.

K. "Defendant" shall mean URBAN ALCHEMY.

L. "Effective Date" means the earliest date, following entry by the Court of an order and judgment finally approving this settlement, upon which one of the following have occurred: (i) expiration of all potential appeal periods without a filing of a notice of appeal of the final approval order or judgment; or (ii) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or (iii) final dismissal or denial of all such appeals (including any petitions for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review.

M. "Funding Date" shall mean the date by which Defendant has paid the entire Gross Settlement Amount to the Claims Administrator in accord with the terms of this Agreement. Defendant will pay the Gross Settlement Amount to the Claims Administrator in two installments, as follows: (1) 50% within the later of ten (10) calendar days after the Court's entry of the final approval order or thirty (30) calendar days following the exhaustion of all objections and/or appeals, and (2) 50% within 9 months of payment of the first installment.

N. "Gross Settlement Amount" means Nine Hundred Eighty Thousand Dollars (\$980,000.00) that Defendant must pay into the QSF in connection with this Settlement, inclusive of the sum of Claims Administration Expenses, Attorneys' Fees, Attorney's Expenses, Service Award, and the PAGA Payment and *exclusive* of the employer's share of payroll tax, if any, triggered by any payment under this Settlement.

- 1 O. "Individual Settlement Payment" means the amount payable from the Net Settlement
2 Amount to each Settlement Class Member and excludes any amounts distributed to
3 PAGA Class Members pursuant to PAGA.
- 4 P. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less
5 Attorneys' Fees, Attorneys' Expenses, Service Award, PAGA Payment, and Claims
6 Administration Expenses.
- 7 Q. "Notice Packet" means the Class Notice to be provided to the Class Members by the
8 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
9 than formatting changes to facilitate printing by the Settlement Administrator).
- 10 R. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
11 Labor Code § 2698 *et seq.*
- 12 S. "PAGA Class Members" or "PAGA Class" means all non-exempt employees who
13 are or previously were employed by Urban Alchemy and performed work in
14 California during the period of October 16, 2019 to July 1, 2022.
- 15 T. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
16 for each PAGA Class Member divided by the sum total of the Pay Periods for all
17 PAGA Class Members during the PAGA Period.
- 18 U. "PAGA Pay Periods," for purposes of calculating the distribution of the PAGA Class
19 Member Payment, as defined herein, means the number of pay periods of employment
20 during the PAGA Period that each PAGA Class Member worked in California.
- 21 V. "PAGA Period" means from October 16, 2019 to July 1, 2022.
- 22 W. "PAGA Payment" shall mean Fifty Thousand Dollars (\$50,000) to be allocated from
23 the Gross Settlement Amount, with 25% of the payment going to the Aggrieved
24 Employees and 75% of the payment going to the Labor and Workforce Development
25 Agency ("LWDA"). The amount of the PAGA Settlement Payment is subject to Court
26 approval pursuant to California Labor Code section 2699(l). Any reallocation of the
27 Gross Settlement Amount to increase the PAGA Settlement Payment will not
28 constitute grounds by either party to void this Agreement, so long as the Gross

Settlement Amount remains the same.

X. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either Plaintiff or Defendant, individually.

Y. “Payment Ratio” means the respective Workweeks for each Class Member divided by the sum total Workweeks for all Class Members.

Z. “Plaintiff” shall mean NICOLAS NEUTALL.

AA. “QSF” means the Qualified Settlement Fund established, designated and maintained by the Settlement Administrator to fund the Gross Settlement Amount.

BB. “Released Class Claims” means all class claims alleged in the First Amended Complaint, which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period.

CC. “Released PAGA Claims” means all PAGA claims alleged or which could have been alleged based on the facts alleged in the First Amended Complaint and Plaintiff’s amended PAGA notice to the LWDA (attached to the First Amended Complaint), which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA Period.

DD. “Released Parties” shall mean Defendant and all of its past or present directors, officers, owners, board members, exempt-employees, employers, joint employers, agents, partners, joint venturers, affiliates, representatives, business entities, dbas, subsidiary, parent and affiliate corporations or companies, successors, insurers, attorneys, volunteers and assigns, and each of them.

EE. “Response Deadline” means the date forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

1 FF. "Service Award" means an award in the amount of \$10,000 or in an amount that the
2 Court authorizes to be paid to the Class Representative, in addition to his Individual
3 Settlement Payment and his individual PAGA Class Member Payment, in recognition
4 of his efforts and risks in assisting with the prosecution of the Action and in exchange
5 for executing a General Release of claims including a Civil Code 1542 waiver from
6 the named Plaintiff.

7 GG. "Settlement" means the disposition of the Action pursuant to this Agreement.

8 HH. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
9 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
10 Administrator establishes, designates and maintains, as a QSF under Internal Revenue
11 Code section 468B and Treasury Regulation section 1.468B-1, into which the amount
12 of the Gross Settlement Amount is deposited for the purpose of resolving the claims
13 of Settlement Class Members. The Settlement Administrator shall maintain the funds
14 until distribution in an account(s) segregated from the assets of Defendant and any
15 person related to Defendant. *All accrued interest shall be paid and distributed to the*
16 *Settlement Class Members as part of their respective Individual Settlement*
17 *Payment.*

18 II. "Settlement Class Members" or "Settlement Class" means all Class Members who
19 have not submitted a timely and valid request for exclusion as provided in this
20 Agreement.

21 JJ. "Workweeks," for purposes of calculating the distribution of the Net Settlement
22 Amount, means the number of weeks of employment during the Class Period that
23 each Class Member was employed by Defendant in California.

24 **II. RECITALS**

25 A. On October 16, 2020, Plaintiff filed a Notice of Violations with the Labor and
26 Workforce Development Agency (LWDA) and served the same on Defendant. On
27 January 11, 2023, Plaintiff filed an Amended Notice of Violations with the LWDA
28 and served the same on Defendant.

1 B. On December 23, 2020, Plaintiff filed the Action. On January 11, 2023 Plaintiff
2 submitted for filing the First Amended Complaint which is the Operative Complaint,
3 alleging claims for:

- 4 1. Unfair competition (Bus. & Prof. Code § 17200 *et seq.*);
- 5 2. Failure to pay all overtime wages (Labor Code §§ 204, 510, 558, 1194, 1198);
- 6 3. Meal period violations (Labor Code §§ 226.7, 512, 558);
- 7 4. Rest period violations (Labor Code §§ 226.7, 516, 558);
- 8 5. Wage statement violations (Labor Code § 226, *et seq.*);
- 9 6. Failure to reimburse employees for required expenses (Labor Code § 2802);
- 10 7. Failure to provide wages when due (Labor Code §§ 201, 202, 203; 204);
- 11 8. Minimum wage violations (Labor Code §§ 1182.12, 1194, 1194.2, 1197;
12 1197.1);
- 13 9. Failure to timely pay earned wages in violation of Cal. Lab. Code §204;
- 14 10. Failure to maintain payroll records in violation of Cal. Lab. Code § 1174(d);
- 15 11. Violation of the Private Attorneys General Act (Labor Code §§ 2698 *et*
16 *seq.*)[including for suitable seating violations]; and
- 17 12. Failure to provide personnel and payroll records (Labor Code §§ 226, 432,
18 1174, 1198.5, and 2810.5.

19 C. The Class Representative believes he has claims based on alleged violations of the
20 California Labor Code, and the Industrial Welfare Commission Wage Orders, and
21 that class certification is appropriate because the prerequisites for class certification
22 can be satisfied in the Action, and this action is manageable as a PAGA representative
23 action.

24 D. Defendant denies any liability or wrongdoing of any kind associated with the claims
25 alleged in the Action, disputes any wages, damages and penalties claimed by the Class
26 Representative are owed, and further contends that, for any purpose other than
27 settlement, the Action is not appropriate for class or representative action treatment.
28

Defendant contends, among other things, that at all times it complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

E. The Class Representative is represented by Class Counsel. Class Counsel conducted an investigation into the facts relevant to the Action, including conducting an independent investigation as to the allegations, reviewing documents and information exchanged through informal discovery, and reviewing documents and information provided by Defendant pursuant to informal requests for information to prepare for mediation. Defendant produced for the purpose of settlement negotiations certain employment data concerning the Settlement Class, which Class Counsel reviewed and analyzed with the assistance of an expert. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendant is fair, reasonable and adequate, and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding class certification, and numerous potential appellate issues. Although it denies any liability, Defendant is agreeing to this Settlement solely to avoid the inconveniences and cost of further litigation. The Parties and their counsel have agreed to settle the claims on the terms set forth in this Agreement.

F. On February 28, 2022, the Parties participated in mediation presided over by David Rotman, Esq., an experienced mediator of wage and hour class and PAGA actions. The mediation concluded with a settlement following the Parties' acceptance of the mediator's proposal, which was subsequently memorialized in the form of a Memorandum of Understanding.

G. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class Members have merit

1 or that Defendant bears any liability to Plaintiff or the Class on those claims or any
2 other claims, or as an admission by Plaintiff that Defendant's defenses in the Action
3 have merit.

4 H. The Parties believe that the Settlement is fair, reasonable and adequate. The
5 Settlement was arrived at through arm's-length negotiations, taking into account all
6 relevant factors. The Parties recognize the uncertainty, risk, expense and delay
7 attendant to continuing the Action through trial and any appeal. Accordingly, the
8 Parties desire to fully, finally, and forever settle, compromise and discharge all
9 disputes and claims arising from or relating to the Action.

10 I. The Parties agree to certification of the Class for purposes of this Settlement only. If
11 for any reason the settlement does not become effective, Defendant reserves the right
12 to contest certification of any class for any reason and reserves all available defenses
13 to the claims in the Action.

14 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

15 **III. TERMS OF AGREEMENT**

16 A. Settlement Consideration and Settlement Payments by Defendant.

17 1. Settlement Consideration. In full and complete settlement of the Action, and
18 in exchange for the releases set forth below, Defendant will pay the sum of
19 the Individual Settlement Payments, the Service Award, the Attorneys' Fees,
20 the Attorneys' Expenses, PAGA Payment, and the Claims Administration
21 Expenses, as specified in this Agreement, equal to the Gross Settlement
22 Amount of Nine Hundred Eighty Thousand Dollars (\$980,000.00). The
23 Parties agree that this is a non-reversionary Settlement and that no portion of
24 the Gross Settlement Amount shall revert to Defendant. Other than the
25 Defendant's share of employer payroll taxes, Defendant shall not be required
26 to pay more than the Gross Settlement Amount.

27 2. Class Size. Defendant represents that the Settlement Class was comprised of
28 2,750 individuals who collectively worked approximately 92,923 workweeks

(“Projected Workweeks”) during the Class Period. Prior to the filing of the motion for Preliminary Approval, Defendant will provide Class Counsel with a declaration under penalty of perjury confirming the number of applicable Class Members and workweeks they worked during the Class Period.

3. Settlement Payment. Defendant shall pay, via wire transfer, the Gross Settlement Amount to the Settlement Administrator by the Funding Date.

4. Defendant’s Share of Payroll Taxes. Defendant’s share of employer side payroll taxes is in addition to the Gross Settlement Amount and shall be paid together with the first installment of the Gross Settlement Amount.

B. Release by Settlement Class Members. As of the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members release the Released Parties from the Released Class Claims for the Class Period.

C. Release by the PAGA Class Members. As of the Funding Date, in exchange for the consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of California release the Released Parties from the Released PAGA Claims for the PAGA Period. As a result of this release, the PAGA Class Members shall be precluded from bringing claims against Defendant for the Released PAGA Claims.

D. Conditions Precedent: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;
2. The Court enters an order granting final approval of the Settlement and a Final Judgment;
3. If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order Granting Final Approval of Class Action Settlement; and
4. Defendant fully funds the Gross Settlement Amount.

1 E. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
2 not preliminarily or finally approved by the Court, fails to become effective, or is
3 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
4 Defendant from obtaining a complete resolution of the Released Claims, or if
5 Defendant fails to fully fund the Gross Settlement Amount:

- 6 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
7 and shall not be admissible in any judicial, administrative or arbitral
8 proceeding for any purpose or with respect to any issue, substantive or
9 procedural;
- 10 2. The conditional class certification (obtained for any purpose) shall be void *ab*
11 *initio* and of no force or effect, and shall not be admissible in any judicial,
12 administrative or arbitral proceeding for any purpose or with respect to any
13 issue, substantive or procedural; and
- 14 3. None of the Parties to this Settlement will be deemed to have waived any
15 claims, objections, defenses or arguments in the Action, including with respect
16 to the issue of class certification.
- 17 4. Defendant shall bear the sole responsibility for any cost to issue or reissue any
18 curative notice to the Settlement Class Members and all Settlement
19 Administration Costs incurred to the date of nullification.

20 F. Certification of the Settlement Class. The Parties stipulate to conditional class
21 certification of the Class for the Class Period for purposes of settlement only. In the
22 event that this Settlement is not approved by the Court, fails to become effective, or is
23 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
24 Defendant from obtaining a complete resolution of the Released Claims, the
25 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
26 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
27 proceeding for any purpose or with respect to any issue, substantive or procedural.
28

- 1 G. Tax Liability. The Parties make no representations as to the tax treatment or legal
2 effect of the payments called for, and Class Members and/or PAGA Class Members
3 are not relying on any statement or representation by the Parties in this regard. Class
4 Members and/or PAGA Class Members understand and agree that they will be
5 responsible for the payment of any taxes and penalties assessed on the Individual
6 Settlement Payments and/or PAGA Class Members' individual shares of the PAGA
7 Settlement described and will be solely responsible for any penalties or other
8 obligations resulting from their personal tax reporting of Individual Settlement
9 Payments and/or PAGA Class Members' individual shares of the PAGA Settlement.
- 10 H. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
11 the "acknowledging party" and each Party to this Agreement other than the
12 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
13 of this Agreement, and no written communication or disclosure between or among the
14 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
15 such communication or disclosure constitute or be construed or be relied upon as, tax
16 advice within the meaning of United States Treasury Department circular 230 (31 CFR
17 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
18 her or its own, independent legal and tax counsel for advice (including tax advice) in
19 connection with this Agreement, (b) has not entered into this Agreement based upon
20 the recommendation of any other Party or any attorney or advisor to any other Party,
21 and (c) is not entitled to rely upon any communication or disclosure by any attorney
22 or adviser to any other party to avoid any tax penalty that may be imposed on the
23 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
24 any limitation that protects the confidentiality of any such attorney's or adviser's tax
25 strategies (regardless of whether such limitation is legally binding) upon disclosure by
26 the acknowledging party of the tax treatment or tax structure of any transaction,
27 including any transaction contemplated by this Agreement.
- 28

1 I. Preliminary Approval Motion. Within sixty (60) calendar days of execution of this
2 Agreement, or as soon thereafter as practicable, Plaintiff shall file with the Court a
3 Motion for Order Granting Preliminary Approval and supporting papers, which shall
4 include this Settlement Agreement. Plaintiff will provide Defendant with a draft of the
5 Motion at least 3 business days prior to the filing of the Motion to give Defendant an
6 opportunity to propose changes or additions to the Motion.

7 J. Settlement Administrator. The Settlement Administrator shall be responsible for:
8 establishing and administering the QSF; calculating, processing and mailing payments
9 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
10 mailing the Notice Packets to the Class Members as directed by the Court; receiving
11 and reporting the objections and requests for exclusion; calculating, deducting and
12 remitting all legally required taxes from Individual Settlement Payments and
13 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
14 Settlement Payments and/or PAGA Class Members' individual shares of the PAGA
15 Settlement; processing and mailing tax payments to the appropriate state and federal
16 taxing authorities; providing declaration(s) as necessary in support of preliminary
17 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
18 or the Court orders the Settlement Administrator to perform. The Settlement
19 Administrator shall keep the Parties timely apprised of the performance of all
20 Settlement Administrator responsibilities by among other things, sending a weekly
21 status report to the Parties' counsel stating the date of the mailing, the of number of
22 Elections Not to Participate in Settlement it receives (including the numbers of valid
23 and deficient), and number of objections received.

24 K. Notice Procedure.

25 1. Class Data. No later than ten (10) business days after the Preliminary
26 Approval Date, Defendant shall provide the Settlement Administrator with the
27 Class Data for purposes of preparing and mailing Notice Packets to the Class
28 Members.

1 2. Notice Packets.

2 a) The Notice Packet shall contain the Notice of Class Action Settlement
3 in a form substantially similar to the form attached as **Exhibit A**. The
4 Notice of Class Action Settlement shall inform Class Members and
5 PAGA Class Members that they need not do anything in order to
6 receive an Individual Settlement Payment and/or PAGA Class
7 Members' individual shares of the PAGA Settlement and to keep the
8 Settlement Administrator apprised of their current mailing address, to
9 which the Individual Settlement Payments and/or PAGA Class
10 Members' individual shares of the PAGA Settlement will be mailed
11 following the Funding Date. The Notice of Class Action Settlement
12 shall set forth the release to be given by all members of the Class who
13 do not request to be excluded from the Settlement Class and/or PAGA
14 Class Members' in exchange for an Individual Settlement Payment
15 and/or PAGA Class Members' individual shares of the PAGA
16 Settlement, the number of Workweeks worked by each Class Member
17 during the Class Period and PAGA Period, if any, and the estimated
18 amount of their Individual Settlement Payment if they do not request
19 to be excluded from the Settlement and each PAGA Class Members'
20 share of the PAGA Settlement, if any. The Settlement Administrator
21 shall use the Class Data to determine Class Members' Workweeks and
22 PAGA Workweeks. The Notice will also advise the PAGA Class
23 Members that they will release the Released PAGA Claims and will
24 receive their share of the PAGA Settlement regardless of whether they
25 request to be excluded from the Settlement.

26 b) The Notice Packet's mailing envelope shall include the following
27 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
28 ENTITLED TO PARTICIPATE IN A CLASS ACTION

1 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
2 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
3 NOTICE.”

4 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
5 Settlement Administrator will perform a search based on the National Change
6 of Address Database to update and correct any known or identifiable address
7 changes. No later than fourteen (14) calendar days after receiving the Class
8 Data from Defendant, the Settlement Administrator shall mail copies of the
9 Notice Packet to all Class Members via regular First-Class U.S. Mail and
10 electronic mail. The Settlement Administrator shall exercise its best judgment
11 to determine the current mailing address for each Class Member. The address
12 identified by the Settlement Administrator as the current mailing address shall
13 be presumed to be the best mailing address for each Class Member.

14 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
15 Administrator as non-delivered on or before the Response Deadline shall be
16 re-mailed to any forwarding address provided. If no forwarding address is
17 provided, the Settlement Administrator shall promptly attempt to determine a
18 correct address by lawful use of skip-tracing, or other search using the name,
19 address and/or Social Security number of the Class Member involved, and
20 shall then perform a re-mailing, if another mailing address is identified by the
21 Settlement Administrator. In addition, if any Notice Packets, which are
22 addressed to Class Members who are currently employed by Defendant, are
23 returned to the Settlement Administrator as non-delivered and no forwarding
24 address is provided, the Settlement Administrator shall notify Defendant.
25 Defendant will request that the currently employed Class Member provide a
26 corrected address, and transmit to the Administrator any corrected address
27 provided by the Class Member. Class Members who received a re-mailed
28

1 Notice Packet shall have their Response Deadline extended fifteen (15) days
2 from the original Response Deadline.

3 5. Disputes Regarding Individual Settlement Payments. Class Members will
4 have the opportunity, should they disagree with Defendant's records regarding
5 the start and end dates of employment to provide documentation and/or an
6 explanation to show contrary dates. If there is a dispute, the Settlement
7 Administrator will consult with the Parties to determine whether an
8 adjustment is warranted. The Settlement Administrator shall determine the
9 eligibility for, and the amounts of, any Individual Settlement Payments under
10 the terms of this Agreement. The Settlement Administrator's determination
11 of the eligibility for and amount of any Individual Settlement Payment shall
12 be binding upon the Class Member and the Parties.

13 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
14 by the Settlement Administrator concerning the administration of the
15 Settlement will be resolved by the Court under the laws of the State of
16 California. Before any such involvement of the Court, counsel for the Parties
17 will confer in good faith to resolve the disputes without the necessity of
18 involving the Court.

19 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
20 Packet shall state that Class Members who wish to exclude themselves from
21 the Settlement must submit a signed copy of the Request for Exclusion form
22 to the Settlement Administrator by the Response Deadline. A Request for
23 Exclusion form will be mailed together with the Notice Packet to all Class
24 Members. The Request for Exclusion will not be valid if it is not timely
25 submitted, if it is not signed by the Class Member, or if it does not contain the
26 name and address and last four digits of the Social Security number of the
27 Class Member. The date of the postmark on the mailing envelope or fax stamp
28 on the Request for Exclusion shall be the exclusive means used to determine

1 whether the request for exclusion was timely submitted. Any Class Member
2 who submits a timely Request for Exclusion shall be excluded from the
3 Settlement Class will not be entitled to an Individual Settlement Payment and
4 will not be otherwise bound by the terms of the Settlement or have any right
5 to object, appeal or comment thereon. However, any Class Member that
6 submits a timely Request for Exclusion that is also a member of the PAGA
7 Class will still receive his/her pro rata share of the PAGA Settlement, as
8 specified below, and in consideration, will be bound by the Release by the
9 PAGA Class as set forth herein. Settlement Class Members who fail to submit
10 a valid and timely Request for Exclusion on or before the Response Deadline
11 shall be bound by all terms of the Settlement and any final judgment entered
12 in this Action if the Settlement is approved by the Court. No later than
13 fourteen (14) calendar days after the Response Deadline, the Settlement
14 Administrator shall provide counsel for the Parties with a final list of the Class
15 Members who have timely submitted timely Requests for Exclusion. At no
16 time shall any of the Parties or their counsel seek to solicit or otherwise
17 encourage members of the Class to submit Requests for Exclusion from the
18 Settlement.

- 19 8. Objections. The Notice of Class Action Settlement contained in the Notice
20 Packet shall state that Class Members who wish to object to the Settlement
21 may submit to the Settlement Administrator a written statement of objection
22 (“Notice of Objection”) by the Response Deadline. The postmark date of
23 mailing shall be deemed the exclusive means for determining that a Notice of
24 Objection was served timely. The Notice of Objection, if in writing, must be
25 signed by the Settlement Class Member and state: (1) the case name and
26 number; (2) the name of the Settlement Class Member; (3) the address of the
27 Settlement Class Member; (4) the last four digits of the Settlement Class
28 Member’s Social Security number; (5) the basis for the objection; and (6) if

1 the Settlement Class Member intends to appear at the Final
2 Approval/Settlement Fairness Hearing. Class Members who fail to make
3 objections in writing in the manner specified above may still make their
4 objections orally at the Final Approval/Settlement Fairness Hearing with the
5 Court's permission. Settlement Class Members will have a right to appear at
6 the Final Approval/Settlement Fairness Hearing to have their objections heard
7 by the Court regardless of whether they submitted a written objection. At no
8 time shall any of the Parties or their counsel seek to solicit or otherwise
9 encourage Class Members to file or serve written objections to the Settlement
10 or appeal from the Order and Final Judgment. Class Members who submit a
11 written request for exclusion may not object to the Settlement. Class Members
12 may not object to the PAGA Settlement.

13 L. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
14 the Gross Settlement Amount plus any employer's share of payroll taxes as mandated
15 by law within the time specified hereinabove.

16 1. Calculation of Individual Settlement Payments. Individual Settlement
17 Payments shall be paid from the Net Settlement Amount and shall be paid
18 pursuant to the formula set forth herein. Using the Class Data, the Settlement
19 Administrator shall add up the total number of Workweeks for all Class
20 Members. The respective Workweeks for each Class Member will be divided
21 by the total Workweeks for all Class Members, resulting in the Payment Ratio
22 for each Class Member. Each Class Member's Payment Ratio will then be
23 multiplied by the Net Settlement Amount to calculate each Class Member's
24 estimated Individual Settlement Payments. Each Individual Settlement
25 Payment will be reduced by any legally mandated employee tax withholdings
26 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
27 Members who submit valid and timely requests for exclusion will be
28 redistributed to Settlement Class Members who do not submit valid and timely

requests for exclusion on a pro rata basis based on their respective Payment Ratios.

2. Calculation of Individual Payments to the PAGA Class Members. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all PAGA Class Members during the PAGA Period. The respective PAGA Pay Periods for each PAGA Class Member will be divided by the total PAGA Pay Periods for all PAGA Class Members, resulting in the “PAGA Payment Ratio” for each PAGA Class Member. Each PAGA Class Member’s PAGA Payment Ratio will then be multiplied by the PAGA Class Member Payment to calculate each PAGA Class Member’s estimated share of the PAGA Settlement.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as 25% wages (“Wage Portion”) and 75% interest and penalties (“Non-Wage Portion”). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Non-wage Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Agreement.

4. Allocation of PAGA Class Member Payments. For tax purposes, PAGA Class Member Settlement Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and individual shares of the PAGA Settlement made to Settlement Class Members and/or PAGA Class Members under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the

Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

6. All monies received by Settlement Class Members under the Settlement which are attributable to wages shall constitute income to such Settlement Class Members solely in the year in which such monies actually are received by the Settlement Class Members. It is the intent of the Parties that Individual Settlement Payments and individual shares of the PAGA Settlement provided for in this Settlement agreement are the sole payments to be made by Defendant to Settlement Class Members and/or PAGA Class Members in connection with this Settlement Agreement, with the exception of Plaintiff, and that the Settlement Class Members and/or PAGA Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments and/or their shares of the PAGA Settlement.

7. Mailing. Individual Settlement Payments and PAGA Class Member Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or PAGA Class Members' last known mailing address no later than fifteen (15) calendar days after the Funding Date.

8. Expiration. Any checks issued to Settlement Class Members and PAGA Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. If a Settlement Class Member and/or PAGA Class Member does not cash his or her settlement check within 90 days, the Settlement Administrator will send a letter to such persons, advising that the check will expire after the 180th day, and invite that Settlement Class Member and/or PAGA Class Member to request reissuance in the event the check was destroyed, lost or misplaced. In the event an Individual Settlement Payment and/or PAGA Class Members' individual share of the PAGA Settlement check has not been cashed within one hundred and eighty (180)

1 days, all funds represented by such uncashed checks, plus any interest accrued
2 thereon, shall be redistributed to those Participating Class Members who
3 cashed their checks using the same formula of allocation provided herein.

4 9. Service Award. In addition to the Individual Settlement Payment and his
5 individual share of the PAGA Settlement to be paid to Plaintiff, Plaintiff will
6 apply to the Court for an award of not more than \$10,000.00, as the Service
7 Award. Defendant will not oppose a Service Award of not more than
8 \$10,000.00 for Plaintiff. The Settlement Administrator shall pay the Service
9 Award, either in the amount stated herein if approved by the Court or some
10 other amount as approved by the Court, to Plaintiff from the Gross Settlement
11 Amount no later than fifteen (15) calendar days after the Funding Date. Any
12 portion of the requested Service Award that is not awarded to the Class
13 Representative shall be part of the Net Settlement Amount and shall be
14 distributed to Settlement Class Members as provided in this Agreement. The
15 Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff
16 for his Service Award. Plaintiff shall be solely and legally responsible to pay
17 any and all applicable taxes on his Service Award and shall hold harmless the
18 Released Parties from any claim or liability for taxes, penalties, or interest
19 arising as a result of the Service Award. The Service Award shall be in
20 addition to Plaintiff's Individual Settlement Payment as a Settlement Class
21 Member. Approval of this Settlement shall not be conditioned on Court
22 approval of the requested amount of the Service Award. If the Court reduces
23 or does not approve the requested Service Award, Plaintiff shall not have the
24 right to revoke the Settlement, and it will remain binding.

25 10. Attorneys' Fees. Defendant understands a motion by Class Counsel for
26 attorneys' fees not to exceed one-third of the Gross Settlement Amount
27 currently estimated to be \$326,666.66 plus costs and expenses supported by
28 declaration not to exceed Thirty Thousand Dollars (\$30,000.00), from the

Gross Settlement Amount will be filed. Any portion of the requested Attorneys' Fees that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall allocate and pay the Attorneys' Fees to Class Counsel from the Gross Settlement Amount no later than fifteen (15) calendar days after the Funding Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. In the event that the Court reduces or does not approve the requested Attorneys' Fees, Plaintiff and Class Counsel shall not have the right to revoke the Settlement, or to appeal such order, and the Settlement will remain binding.

11. PAGA Payment. Fifty Thousand Dollars (\$50,000) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004 ("PAGA Settlement"). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Settlement (\$37,500) to the California Labor and Workforce Development Agency no later than twenty-five (25) calendar days after the Funding Date (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Settlement (\$12,500) will be distributed to the PAGA Class Members as described in this Agreement (hereinafter "PAGA Class Member Payment"). For purposes of distributing the PAGA Settlement to the PAGA Class Members, each PAGA Class Member shall receive their pro-rata share of the PAGA Class Member Payment using the PAGA Payment Ratio as defined above.

12. Claims Administration Expenses. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement

Amount. The estimate of the Settlement Administration Costs is \$28,000.00. The Settlement Administrator shall be paid the Class Administration Expenses no later than fifteen (15) calendar days after the Funding Date.

M. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Award, the Attorneys' Fees, the Attorneys' Expenses, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will provide Defendant with a draft of the Motion at least 3 business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Claims Administration Expenses, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendant to review the Motions for Preliminary and

1 Final Approval, including the Order Granting Final Approval of Class Action
2 Settlement, and Judgment before filing with the Court. The Parties and their counsel
3 will cooperate with each other and use their best efforts to effect the Court's approval
4 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
5 Judgment.

6 O. Cooperation. The Parties and their counsel will cooperate with each other and use
7 their best efforts to implement the Settlement.

8 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
9 except such proceedings necessary to implement and complete the Settlement, pending
10 the Final Approval/Settlement Fairness Hearing to be conducted by the Court

11 Q. Amendment or Modification. This Agreement may be amended or modified only by
12 a written instrument signed by counsel for all Parties or their successors-in-interest.

13 R. Plaintiff's Individual Claims. In addition to this Agreement and the claims he is
14 releasing hereby, Plaintiff is entering into a separate individual settlement agreement,
15 which shall provide for a separate individual payment, and which shall provide for an
16 additional broad release, including a waiver of Civil Code Section 1542. That release,
17 waiver and discharge of all claims shall include, but will not be limited to, any and all
18 claims arising out of the Action, as well as additional claims described in the individual
19 settlement agreement, which are separate and different from the claims alleged in the
20 Action.

21 S. Entire Agreement. Except with respect to Plaintiff's individual settlement agreement,
22 described in paragraph "R" immediately above, this Agreement and any attached
23 Exhibit constitute the entire Agreement among these Parties, and no oral or written
24 representations, warranties or inducements have been made to any Party concerning
25 this Agreement or its Exhibit other than the representations, warranties and covenants
26 contained and memorialized in this Agreement and its Exhibit.

27 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
28 represent they are expressly authorized by the Parties whom they represent to negotiate

1 this Agreement and to take all appropriate Action required or permitted to be taken by
2 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
3 documents required to effectuate the terms of this Agreement. The persons signing
4 this Agreement on behalf of Defendant represents and warrants that he/she is
5 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
6 warrants that he is authorized to sign this Agreement and that he has not assigned any
7 claim, or part of a claim, covered by this Settlement to a third-party.

8 U. No Public Comment: The Parties and their counsel agree that they will not issue any
9 press releases, initiate any contact with the press, respond to any press inquiry, or have
10 any communication with the press about the fact, amount or terms of the Settlement
11 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
12 of its terms for any marketing or promotional purposes. Nothing herein will restrict
13 Class Counsel from including publicly available information regarding this settlement
14 in future judicial submissions regarding Class Counsel's qualifications and experience.
15 Further, Class Counsel will not include, reference or use the Settlement Agreement for
16 any marketing or promotional purposes, either before or after the Motion for
17 Preliminary Approval is filed.

18 V. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
19 to the benefit of, the successors or assigns of the Parties, as previously defined.

20 W. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
21 shall be governed by and interpreted according to the laws of the State of California.

22 X. Counterparts. This Agreement may be executed in one or more counterparts. All
23 executed counterparts and each of them shall be deemed to be one and the same
24 instrument provided that counsel for the Parties to this Agreement shall exchange
25 among themselves copies or originals of the signed counterparts.

26 Y. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
27 is a fair, adequate and reasonable settlement of this Action and have arrived at this
28

1 Settlement after extensive arms-length negotiations, taking into account all relevant
2 factors, present and potential.

3 Z. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
4 respect to the interpretation, implementation and enforcement of the terms of this
5 Agreement and all orders and judgments entered in connection therewith, and the
6 Parties and their counsel submit to the jurisdiction of the Court for purposes of
7 interpreting, implementing and enforcing the settlement and all orders and judgments
8 entered in connection with this Agreement.

9 AA. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
10 the Court shall first attempt to construe the provisions valid to the fullest extent
11 possible consistent with applicable precedents so as to define all provisions of this
12 Agreement valid and enforceable.

13 BB. No Unalleged Claims. Except with respect to individual claims alleged by Plaintiff
14 and settled separately by an individual settlement agreement between the Parties
15 described in paragraph “R” above, Plaintiff and Class Counsel represent that they do
16 not currently intend to pursue any claims against the Released Parties, including, but
17 not limited to, any and all claims relating to or arising from Plaintiff’s employment
18 with Defendant, regardless of whether Class Counsel is currently aware of any facts or
19 legal theories upon which any claims or causes of action could be brought against
20 Released Parties, including those facts or legal theories alleged in the operative
21 complaint in this Action. The Parties further acknowledge, understand and agree that
22 this representation is essential to the Agreement and that this Agreement would not
23 have been entered into were it not for this representation.

24 CC. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
25 certification for purposes of this settlement only.

26 DD. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
27 Released Claims have merit and give rise to liability on the part of Defendant.
28 Defendant claims that the Released Claims have no merit and do not give rise to

liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendant or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other than as may be specifically set forth herein, each Party shall be responsible for and shall bear its/his own attorney's fees and costs.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: Jan 31, 2023



Nicolas X Neutall (Jan 31, 2023 09:44 PST)

NICOLAS NEUTALL

IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

DATED: January 31, 2023



URBAN ALCHEMY

Dr. Lena Miller

Printed Name

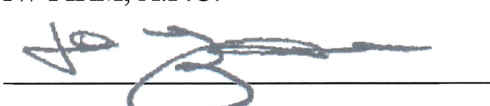
Chief Executive Officer

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: January 31, 2023

JCL LAW FIRM, A.P.C.

By: 

Attorneys for Plaintiff and the Settlement Class Members

1 DATED: January 31, 2023

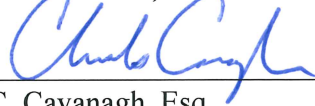
ZAKAY LAW GROUP, APLC

2 By: 
3 _____

4 Attorneys for Plaintiff and the Settlement Class
5 Members

6 DATED: Jan, 31, 2023

MESSNER REEVES, LLP

7 By: 
8 _____

9 Charles C. Cavanagh, Esq.
10 Attorneys for Defendant
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EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Neutall v. Urban Alchemy., San Francisco County Superior Court Case No. CGC-20-588622)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Francisco (the “Court”) has been reached between Plaintiff Nicolas Neutall (“Plaintiff”) and Defendant Urban Alchemy (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All non-exempt employees who are or previously were employed by Defendant and performed work in California during the Class Period.

The “Class Period” is the period of time running from December 23, 2016 to July 1, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On December 23, 2020, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Contra Costa. Plaintiff asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (c) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (d) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (f) Failed to reimburse Plaintiff for required expenses in violation of California Labor code 2802; (g) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; (h) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; and (i) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendant denies and disputes all claims asserted in the Action. Specifically, Defendant contended (and continues to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and overtime that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendant paid any members of the class all wages due them at the time of their terminations; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant fully reimbursed members of the class for required business expenses; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action.

On February 28, 2022, the Parties participated in an all-day mediation with David Rottman, Esq., an experienced mediator of wage and hour class and PAGA actions. The mediation concluded without a settlement. However, following the mediation, each side, represented by its respective counsel, continued settlement negotiations, with the assistance of Mediator Rotman, until they agreed to settle the Action. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of One Million Thousand Dollars (\$1,000,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payment to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$20,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- Attorneys' Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$333,333.33) and a Class Counsel Litigation Expenses Payment of not more than \$30,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$50,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$37,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$12,500 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Participating Class Members that occurred during the Class Period and multiplying the result by each individual Participating Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as the number of weeks during the Class Period that each Class Member was employed as a non-exempt employee of Defendant.
- Calculation of PAGA Penalties Payments to PAGA Employees. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employees" means all mean all non-exempt employees who are or previously were employed by Defendant and performed work in California during the PAGA Period. The PAGA Period means the period between October 16, 2019 to July 1, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 20% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 80% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged in the operative complaint which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. The Released PAGA Claims shall be released as follows. Upon entry of final judgment and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all PAGA claims alleged in the operative complaint and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> Workweeks worked during the Class Period (December 23, 2016 to July 1, 2022).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendant's records reflect that you have <<____>> pay periods worked during the PAGA Period (October 16, 2019 to July 1, 2022).

Based on this information, your estimated PAGA Payment Share is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: _____. (800) _____.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Net PAGA Amount.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is _____. The request for exclusion must state in substance: "I wish to opt out of the settlement of the class action lawsuit **entitled *Neutall v. Urban Alchemy, San Francisco County Superior Court, Case No. CGC-20-588622***. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Neutall v. Urban Alchemy, San Francisco County Superior Court, Case No. CGC-20-588622***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
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Class Counsel:

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Counsel for Defendant:

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ccavanaugh@messner.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on _____, at the San Francisco County Superior Court, Department 610, located at 400 McAllister Street, San Francisco, CA 94102 before Judge Samel K. Feng. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-888-250-6810 or write to *Neutall v. Urban Alchemy, San Francisco County Superior Court, Case No. CGC-20-588622*, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the Participating Class Members who cashed his or her Settlement Share check using the same workweek formula used for distribution of the Net Settlement Amount. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.