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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ELAINE MOYAL, on behalf of herself and
others similarly situated and aggrieved,

Plaintiff,

v.

CABINETS TO GO, LLC, a California
Corporation, and DOES 1 to 100, inclusive,

Defendants.

Case No.: 20STCV32477

**JOINT STIPULATION AND
SETTLEMENT AGREEMENT**

Subject to final approval by the Court, this Settlement Agreement is between Plaintiff Elaine Moyal ("Plaintiff") and Defendant Cabinets-To-Go, LLC ("Defendant"). Plaintiff and Defendant are collectively referred to in this Agreement as the "Parties."

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meanings:

A. Action: *Elaine Moyal v. Cabinets to Go, LLC and DOES 1 to 100*, Los Angeles Superior Court Case No. 20STCV32477.

B. Administration Costs: The costs incurred by the Settlement Administrator to administer this Settlement, including but not limited to providing Notice, various efforts to locate class members, calculating Employer Taxes (defined below) owed by Defendant, administering and ensuring proper tax treatment of all distributions of the Gross Settlement Fund (including but not limited to payment of all payroll taxes), establishing and maintaining a Qualified Settlement Fund for all funding obligations provided for herein (including but not limited to any and all fees associated with the accounts and transfers to and from the accounts), administering payments to Plaintiffs, Participating Class Members (defined below), to the Labor and Workforce Development Agency, and to Class Counsel. Administration Costs shall not exceed Twenty Thousand Dollars [\$20,000]. All Administration Costs shall be paid from the Gross Settlement Amount. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

C. Agreement, Settlement Agreement, Joint Stipulation, or Settlement: The settlement agreement reflected in this document, titled "Joint Stipulation and Settlement Agreement."

D. Attorney Fee Award: The amount, not to exceed Thirty-Three and One-Third percent [33.33%] of the Gross Settlement Amount or One Hundred Ninety-One Thousand Six Hundred Sixty-Six dollars [\$191,666], finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Gross Settlement Amount and will not be opposed by

Defendant. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

E. Class: All hourly paid, non-exempt individuals who worked for Defendant in California at any time during the Settlement Period. It shall be an opt-out class.

F. Class Counsel: Michael Crosner, Esq., Zachary Crosner, Esq., Blake Jones, Esq., and Nikki Trenner, Esq. of Crosner Legal, PC.

G. Class Member: Each person eligible to participate in this Settlement who is a member of the Class as defined above.

H. Class Notice or Notice: The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.

I. Class Period: The period beginning April 6, 2016 through whichever date occurs first: (1) the date that is ninety (90) days from the execution of the finalized Settlement Agreement; or (2) the date of Preliminary Approval.

J. Class Representative or Plaintiff: Plaintiff Elaine Moyal.

K. Class Representative Enhancement Payment: The amount the Court awards to Plaintiff, which will not exceed Ten Thousand dollars [\$10,000]. This payment shall be paid from the Gross Settlement Amount and will not be opposed by Defendant. This payment is offered in consideration for the Plaintiff's actions in conferring a benefit upon the State of California and the Class, the time and effort Plaintiff put into pursuing the litigation, and reasonable fears of being blacklisted from future employment. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

L. Cost Award: The amount that the Court awards Class Counsel for payment of actual litigation costs, which shall not exceed Twenty Thousand dollars [\$20,000]. The Cost Award will be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not

awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

M. Counsel for Defendant: Marta M. Fernandez and Patricia Belton of Jeffer Mangels Butler & Mitchell, LLP.

N. Cy Pres Beneficiary: The United Way, which is a non-profit organization that supports projects that benefit employees and applicants throughout the State of California. The Parties agree that designating The United Way as the Cy Pres Beneficiary will “further the purposes of the underlying class proceedings in this action and will promote justice for all Californians” in conformity with California Code of Civil Procedure section 384.

O. Defendant: Defendant Cabinets-To-Go, LLC.

P. Disbursement of the Settlement: The date on which the Settlement Administrator shall disburse the Gross Settlement Amount as indicated herein. Under the terms of this Settlement Agreement, ten (10) business days after the Effective Final Settlement Date, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorney Fee Award and Cost Award to Class Counsel for attorneys’ fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Participating Class Members, as approved by the Court.

Q. Effective Final Settlement Date: The effective date of this Settlement shall occur upon one day after the Judgment is final. The occurrence of the Effective Settlement Date is a prerequisite to any distributions from the Settlement Fund. The Judgment shall be considered final on the later of: (i) the date of final affirmance (including expiration of time for any request or petition for any further review) of the Judgment on any appeal; or (ii) the date of final dismissal of any appellate proceeding regarding the Judgment; or (iii) if no appeal is filed, the expiration of the time for the filing or noticing of any appeal from the Court’s judgment approving this

Settlement; i.e., sixty (60) days after the entry of the Judgment. Within ten (10) days following the Entry of Judgment it shall be uploaded to the settlement website.

R. Employer Taxes: Defendant's portion of payroll taxes as the Class Members' current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) owed to the appropriate local, state, and federal taxing authorities. Defendant will pay its portion of payroll taxes separate and apart from the Gross Settlement Amount to the QSF to be distributed by the Settlement Administrator to the appropriate taxing authorities.

S. Funding of Settlement: Defendant shall wire to the Settlement Administrator the Gross Settlement Amount within five (5) business days of the Effective Final Settlement Date.

T. Final Approval: The final order entered by the Court finally approving this Agreement.

U. Gross Settlement Amount: The total value of the Settlement is a non-reversionary Five Hundred Seventy-Five Thousand dollars and Zero cents [\$575,000]. This gross amount is the maximum Defendant can be required to pay under this Settlement Agreement, with the exception of its obligation to pay Employer Taxes. The following disbursements will be paid from the Gross Settlement Amount: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Participating Class Members, as approved by the Court. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

V. Individual Settlement Share(s): The amount due to each Participating Class Member under the terms of this Settlement Agreement. The Participating Class Member shall receive payment in the amount of his/her Individual Settlement Share reduced by the Participating Class Member's tax liability for the Individual Settlement Share. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Settlement Share automatically, without the return of a claim form.

1 **W. LWDA:** California Labor and Workforce Development Agency.

2 **X. Net Settlement Amount:** The total amount of money available for payout to Participating
3 Class Members, which is the Gross Settlement Amount less the Attorney Fee Award, Cost Award,
4 Class Representative Enhancement Payments, the portion of the PAGA Payment paid to the
5 LWDA, and Administration Costs. In other words, the Net Settlement Amount is the portion of
6 the Gross Settlement Amount that will be distributed to Class Members who do not request
7 exclusion from the Settlement. The payment of employee-side taxes on the portion of the
8 Individual Settlement Shares earmarked as wages shall be paid out of the Net Settlement Amount.
9 Thus, the Individual Settlement Shares that are paid out of the Net Settlement Amount shall be
10 reduced by the employee's tax liability for the share.

11 **Y. PAGA:** The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor
12 Code §§ 2698 *et seq.*).

13 **Z. PAGA Payment:** The PAGA Payment consists of Ten Thousand dollars [\$10,000] of
14 the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the in
15 the Complaint. Seventy-five percent (75%) of the PAGA Payment or Seven Thousand Five
16 Hundred dollars [\$7,500] shall be paid to the LWDA, and twenty-five percent (25%) or Two
17 Thousand Five Hundred dollars [\$2,500] of the PAGA Payment shall be part of the Net Settlement
18 Amount distributed to Participating Class Members.

19 **AA. Participating Class Members:** All Class Members who do not submit a valid and
20 timely request to exclude themselves from this Settlement.

21 **BB. Parties:** Plaintiff Elaine Moyal as an individual and as Class Representative, and
22 Defendant Cabinets-To-Go, LLC.

23 **CC. Preliminary Approval or Preliminary Approval Order:** The Court's order
24 preliminarily approving the proposed Settlement.

25 **DD. Qualified Settlement Fund or QSF:** The Parties agree that the Gross Settlement
26 Amount is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and
27 Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the
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1 Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as
2 coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in
3 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as
4 required by law. The Parties understand and agree that: (1) the Settlement Fund will qualify and
5 be characterized as a Qualified Settlement Fund under the provisions of Treasury Regulation
6 Sections 1.468B-1 and 1.468B-5 with the purpose of resolving and/or satisfying the claims raised
7 in this Settlement, (2) the Qualified Settlement Fund will be taxed as a separate entity for purposes
8 of all federal, state, and local taxes, (3) the parties shall treat the Qualified Settlement Fund on a
9 basis consistent therewith for all tax purposes (and, for the avoidance of doubt, this Agreement
10 shall be interpreted consistently therewith), (4) the Qualified Settlement Fund will be
11 characterized as the employer of all Settlement Class Members for purposes of determining all tax
12 obligations (including withholding obligations) and/or benefits obligations, if any, associated with
13 any and all payments under this Settlement, and (5) the Qualified Settlement Fund will bear full
14 and sole responsibility (including the preparation and submission of necessary tax forms) for all
15 withholding taxes and benefits (if any) associated with the Qualified Settlement Fund and
16 Settlement Funds under this Settlement, in addition to any income taxes with respect to the
17 earnings within the Qualified Settlement Fund and tax requirements relating to payments from the
18 Qualified Settlement Fund. All taxes and benefits (if any) (including any interest and penalties)
19 arising with respect to income earned by the Qualified Settlement Fund shall be paid from the
20 Qualified Settlement Fund. All expenses and costs incurred in connection with the operation and
21 implementation of this Section (including without limitation, expenses of attorneys and/or
22 accountants and mailing and distribution of expenses related to filing (or failing to file) any
23 necessary tax returns or making (or failing to make) any necessary benefits payments) shall be
24 paid from the Qualified Settlement Fund. For the avoidance of doubt, Defendant shall have no
25 obligations with respect to the administration of the Qualified Settlement Fund, except as expressly
26 provided under this paragraph CC.

1 **EE. Released Claims:** Class Members who do not opt out of the settlement will release any
2 and all claims alleged by Plaintiff and Class Members in the Complaint or PAGA Notice
3 (collectively, the “Complaints”) or that could have been asserted in the Complaints based on the
4 same facts, transactions, occurrences, including, but not limited to, any and all claims relating to
5 the payment of minimum wages, overtime wages, rest periods, meal periods, wage statement and
6 paystubs, waiting time penalties, maintaining business records, PAGA penalties, unfair business
7 practices, interest, attorneys’ fees, and any other alleged wage and hour violations or other claims
8 that were or could have been asserted based on the facts alleged in the Complaints. The release
9 only applies to periods of time when Class Members were members of the Class (i.e., excluding
10 periods of time in an exempt position or working outside of California).

11 **FF. Released Parties:** Defendant and its past, present and/or future, direct and/or indirect,
12 officers, directors, shareholders, partners, members, customers, agents, owners, attorneys, insurers,
13 past, present, and future divisions, predecessors, successors, trustees, representatives,
14 administrators, fiduciaries, assigns, subrogees, executors, partners, privies, and employees, and all
15 parents, subsidiaries and related or affiliated entities, etc.

16 **GG. Response Deadline:** Thirty (30) calendar days from the initial mailing of the Notice.

17 **HH. Settlement Administration:** The Settlement Administrator will conduct a skip trace for
18 the address of all former employee Class Members. The Settlement Administrator will mail the
19 Notice by first class U.S. mail to all Class Members at the last known address Defendant has on
20 file for those Class Members and to all former employee Class Members at the address resulting
21 from the skip trace. The Notice will inform Class Members that they have until the Response
22 Deadline to either object to the Settlement or to opt-out of the Settlement. Any Class Member who
23 does not receive Notice after the steps outlined above have been taken will still be bound by the
24 Settlement and/or judgment.

25 **II. Settlement Administrator:** The third party administrator agreed upon by Parties to
26 administer this Settlement is Simpluris.

27 **JJ. Superior Court:** Los Angeles Superior Court.

1 **II. RECITALS**

2 **A.** Effective April 6, 2020, Plaintiff's claims were tolled under the CA Emergency Rule
3 of Court 9 due to the COVID-19 pandemic. The Action was filed by Plaintiff Elaine Moyal in the
4 Los Angeles Superior Court on August 24, 2020. The complaint alleged causes of action on behalf
5 of Plaintiff and those similarly situated hourly/non-exempt employees for failure to provide meal
6 and rest periods, failure to pay for all work performed at minimum and overtime rates, failure to
7 properly itemize wage statements, failure to pay for all wages owed at the time of termination,
8 failure to maintain accurate business records, violations of the PAGA, and violations of the UCL.

9 **B.** Following the filing of the Complaint, the Parties agreed to an early mediation and a
10 protocol for exchanging documents and information before the mediation. Defendant produced a
11 random sampling of time and pay records for class members. Defendant also provided documents
12 of its wage and hour policies and practices during the class period, and information regarding the
13 total number of current and former employees, the estimated total amount of workweeks and pay
14 periods, and the average hourly rate, among other relevant data.

15 **C.** The Parties attended mediation with Marc Feder on September 21, 2020. After a full
16 day of arms-length mediation, the Parties were able to reach a settlement, the terms of which are
17 reflected herein.

18 **D. Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize the
19 expense and length of continued proceedings necessary to continue the litigation against Defendant
20 through trial and through any possible appeals. Plaintiff and Class Counsel also have taken into
21 account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and
22 delays inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement
23 negotiations. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth
24 in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the
25 Class Members.

26 **E. Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this
27 litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of
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1 Defendant has been and, unless this Settlement is made, will continue to be devoted to the defense
2 of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and
3 upon the terms set forth in this Agreement to put to rest the Released Claims.

4 **F. Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies
5 any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no
6 concessions or admissions of liability of any sort, and contends that for any purpose other than
7 settlement, the Action is not appropriate for class treatment. Defendant asserts a number of
8 defenses to the claims, and has denied any wrongdoing or liability arising out of any of the alleged
9 facts or conduct in the Action. Neither this Agreement, nor any document referred to or
10 contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as,
11 or may be used as an admission, concession, or indication by or against Defendant or any of the
12 Released Parties of any fault, wrongdoing, or liability whatsoever. There has been no final
13 determination by any court as to the merits of the claims asserted by Plaintiff against Defendant
14 or as to whether a class or classes should be certified, other than for settlement purposes only.

15 **G. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit.
16 Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken
17 to carry out this Agreement is, may be construed as, or may be used as an admission, concession
18 or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims
19 or defenses asserted, or lack thereof, in the Action. However, in the event that this Settlement is
20 finally approved by the Court, the Plaintiff, Class Members, and Class Counsel will not oppose
21 Defendant's efforts to use this Agreement to prove that Plaintiff and Class Members have resolved
22 and are forever barred from re-litigating the Released Claims.

23 **III. SETTLEMENT TERMS AND CONDITIONS**

24 **A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement,
25 the maximum Gross Settlement Amount, that Defendant is obligated to pay under this Settlement
26 Agreement is Five Hundred Seventy-Five Thousand dollars and Zero cents [\$575,000].
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1 **B. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate
2 and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties
3 stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as
4 defined in this Agreement.

5 **C. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree
6 to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of
7 this Settlement only. If the Settlement does not become effective, the fact that the Parties were
8 willing to stipulate to certification as part of the Settlement shall not be admissible or used in any
9 way in connection with, the question of whether the Court should certify any claims in a non-
10 settlement context in this Action or in any other lawsuit. If the Settlement does not become
11 effective, Defendant reserves the right to contest any issues relating to class certification and
12 liability.

13 **D. Appointment of Class Representative.** Solely for the purposes of this Settlement,
14 the Parties stipulate and agree Plaintiff Elaine Moyal shall be appointed as representative for the
15 Class.

16 **E. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties
17 stipulate and agree that the Court appoint Class Counsel to represent the Class.

18 **F. Individual Settlement Share.** Subject to the terms and conditions of this Agreement,
19 the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement
20 Amount to each Participating Class Member.

21 **1. Calculation.**

22 **a. Individual Settlement Share Calculation.** Each Participating Class
23 Member will receive a proportionate share of the Net Settlement Amount
24 that is equal to (i) the Net Settlement Amount divided by the total number
25 of work weeks worked by all Class Members during the Class Period,
26 multiplied by (ii) the number of work weeks worked by the individual
27 Class Member. One day worked in a given week will be credited as a week
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for purposes of this calculation. Only workweeks when the Class Members worked as non-exempt California employees shall be considered. Therefore, the value of each Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked during the Class Period as a non-exempt California employee.

- 2. Tax Withholdings.** Each putative class member's gross settlement award will be apportioned as follows: 20% wages and 80% penalties and interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Defendant will pay its portion of payroll taxes separate and apart from the Gross Settlement Amount to the QSF.

G. Constituents of Gross Settlement Amount Disbursement. Subject to the terms and conditions of this Agreement, the Settlement Administrator shall disburse the Gross Settlement Amount as directed later on herein to the following:

- 1. To the Named Plaintiff:** In addition to her Individual Settlement Share, and subject to the Court's approval, the named Plaintiff, Elaine Moyal, will receive a Class Representative Enhancement Payment of up to Ten Thousand dollars and Zero cents [\$10,000]. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Gross Settlement Amount. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to the Plaintiff with respect to her Class Representative Enhancement Payment.

1 **2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees
2 not to oppose, a total Attorney Fee Award not to exceed Thirty-Three and One-
3 Third percent [33.33%] or One Hundred Ninety-One Thousand Six Hundred Sixty-
4 Six dollars [\$191,666] of the Gross Settlement Amount and a Cost Award not to
5 exceed Twenty Thousand dollars [\$20,000]. The Settlement Administrator will pay
6 the court-approved amounts for the Attorney Fee Award and Cost Award out of the
7 Gross Settlement Fund. Settlement Administrator may purchase an annuity to
8 utilize US treasuries and bonds or other attorney fee deferral vehicles for Class
9 Counsel. Payroll tax withholding and deductions will not be taken from the
10 Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class
11 Counsel with respect to the Attorney Fee Award. In the event the Court does not
12 approve the entirety of the application for the Attorney Fee Award and/or Cost
13 Award, the Settlement Administrator shall pay whatever amount the Court awards,
14 and neither Defendant nor the Settlement Administrator shall be responsible for
15 paying the difference between the amount requested and the amount awarded. If
16 the amount awarded is less than the amount requested by Class Counsel for the
17 Attorney Fee Award and/or Cost Award, the difference shall become part of the
18 Net Settlement Amount and be available for distribution to Participating Class
19 Members.

20 **3. To the Responsible Tax Authorities.** The Settlement Administrator will pay the
21 amount of the Participating Class Members' portion of normal payroll withholding
22 taxes out of each person's Individual Settlement Share. The Settlement
23 Administrator will pay the amount of the Defendant's portion of payroll taxes
24 separate and apart from the Gross Settlement Amount.

25 **4. To the Settlement Administrator.** The Settlement Administrator will pay to itself
26 Administration Costs (reasonable fees and expenses) approved by the Court not to
27 exceed Twenty Thousand dollars and Zero cents [\$20,000]. This will be paid out
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of the Gross Settlement Amount. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members.

5. To the LWDA. The Settlement Administrator will pay Ten Thousand dollars and Zero cents [\$10,000] of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the operative complaint. Seventy-five percent (75%) of the PAGA Payment, or Seven Thousand Five Hundred dollars [\$7,500] shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment, or Two Thousand Five Hundred dollars [\$2,500] shall be part of the Net Settlement Amount distributed to Participating Class Members.

6. To Class Members. The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above.

H. Appointment of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree to the appointment of the Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Notice to the Class Members; keeping track of any objections or requests for exclusion from Class Members; performing skip traces and re-mailing Notices and Individual Settlement Shares to Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's Individual Settlement Share; providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing Individual Settlement Shares to Participating Class Members; calculating and mailing the PAGA Payment to the LWDA; distributing the Attorney Fee Award and Cost Award to Class Counsel; calculating and paying amounts owed to the appropriate tax authorities including but not limited to Employer Taxes owed; printing and providing Class Members and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable

law; providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; providing any funds remaining in the QSF as a result of uncashed checks to the Cy Pres Beneficiary, in the amounts directed per this Settlement, including the administration of related tax reimbursements; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

I. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a. Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval hearing, and approving the Class Notice.
- b. At the Preliminary Approval hearing, the Plaintiff, through Class Counsel, will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.
- c. **Effect of Denial of Preliminary Approval.** Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any

1 amount requested for these items are not conditions of this Settlement
2 Agreement, and are to be considered separate and apart from the fairness,
3 reasonableness, and adequacy of the Settlement. Any order or proceeding
4 relating to an application for the Attorney Fee Award, Cost Award,
5 Administration Costs, and Class Representative Enhancement Payment
6 shall not operate to terminate or cancel this Settlement Agreement.
7 Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability
8 to appeal any decision by the Court to award less than the requested
9 Attorney Fee Award, Cost Award, Administration Costs, and Class
10 Representative Enhancements. All claims for Attorney Fee Award, Cost
11 Award, Administration Costs, and Class Representative Enhancements
12 that Class Counsel, Plaintiff, and the Participating Class Members may
13 possess against Defendant have been compromised, released and resolved
14 in this Settlement Agreement and shall not be affected by any appeal that
15 Class Counsel may file. Defendant shall not be required to pay any
16 additional amount in Settlement regardless of costs and fees incurred by
17 Class Counsel or any other person in such an appeal.

18 **2. Notice to Class Members.** After the Court enters its Preliminary Approval Order,
19 every Class Member will be provided with the Class Notice in accordance with the
20 following procedure:

21 **a. Class Data.** Within ten (10) business days after entry of the Preliminary
22 Approval Order, Defendant shall deliver to the Settlement Administrator
23 an electronic database, which will list for each Class Member: (1) first
24 and last name; (2) last known mailing address; (3) social security number;
25 (4) hire and termination dates; (5) last known email address; and (6) the
26 total number of weeks during which the Class Member performed any
27 actual work during the Class Period as a member of the Class

1 (“Database”). . Class Counsel and Plaintiff will not be provided
2 identifying or contact information or social security numbers for any
3 Settlement Class Members in connection with this Settlement or
4 Settlement Agreement. The data provided to the Settlement
5 Administrator will remain confidential and will not be disclosed to anyone,
6 except as required to applicable tax authorities, pursuant to the express
7 written consent of Defendant, or by order of the Court. The data provided
8 under this Section 2(a) shall be used only for the purpose of administering
9 this Settlement. If any or all of this information is unavailable to
10 Defendant, Defendant will so inform Class Counsel and the Parties will
11 make their best efforts to reconstruct or otherwise agree upon how to deal
12 with the unavailable information. The Settlement Administrator will
13 conduct a skip trace for the address of all Class Members who are former
14 employees of Defendant. The Database shall be based on Defendant’s
15 payroll, personnel, and other business records. The Settlement
16 Administrator shall maintain the Database and all data contained within
17 the Database as private and confidential.

18 **b. Notice Mailing.** Within fourteen (14) business days after entry of the
19 Preliminary Approval Order, the Settlement Administrator will mail the
20 Class Notice to all identified Class Members via first-class regular U.S.
21 Mail, using the mailing address information provided by Defendant and
22 the results of the skip trace performed on all former Defendant employee
23 Class Members.

24 **c. Returned Notices.** If a Class Notice is returned because of an incorrect
25 address, within five (5) business days from receipt of the returned Notice,
26 the Settlement Administrator will conduct a search for a more current
27 address for the Class Member and re-mail the Class Notice to the Class
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1 Member. The Settlement Administrator will use the National Change of
2 Address Database and skip traces to attempt to find the current address.
3 The Settlement Administrator will be responsible for taking reasonable
4 steps to trace the mailing address of any Class Member for whom a Class
5 Notice is returned by U.S. Postal Service as undeliverable. These
6 reasonable steps shall include, at a minimum, the tracking of all
7 undelivered mail; performing address searches for all mail returned
8 without a forwarding address; and promptly re-mailing to Class Members
9 for whom new addresses are found. The Settlement Administrator is
10 unable to locate a better address, the Class Notice shall be re-mailed to
11 the original address. If the Class Notice is re-mailed, the Settlement
12 Administrator will note for its own records the date and address of each
13 re-mailing.

14 **d. Weekly Status Reports.** The Settlement Administrator shall provide a
15 weekly status report to the Parties. As part of its weekly status report, the
16 Settlement Administrator will inform Class Counsel and Defendant's
17 Counsel of the number of Notices mailed and emailed (if applicable), the
18 number of Notices returned as undeliverable, the number of Notices re-
19 mailed, and the number of requests for exclusion or objections received.

20 **e. Settlement Administrator's Declaration.** No later than fourteen (14)
21 calendar days after the Response Deadline or at the request of the Parties,
22 whichever comes first, the Settlement Administrator will provide the
23 Parties a declaration of due diligence setting forth its compliance with its
24 obligations under this Agreement. The declaration from the Settlement
25 Administrator shall also be filed with the Court by Class Counsel at the
26 time the Motion for Final Approval is filed. Before the Final Approval
27 Hearing, the Settlement Administrator will supplement its declaration of
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1 due diligence if any material changes occur from the date of the filing of
2 its prior declaration.

3 **3. Objections to Settlement.** The Class Notice will provide the method and timing
4 for objections to the Settlement.

5 **a. Timing.** The objection must be submitted to the Settlement Administrator
6 by mail, postmarked by the Response Deadline.

7 **b. Format.** Any Objections shall include: (a) the case name (e.g. *Elaine*
8 *Moyal v. Cabinets to Go, LLC and DOES 1 to 100*) and case number (e.g.
9 20STCV32477); (b) the objecting person's or his/her attorney's full name,
10 address, telephone number, and signature; (c) the words "Notice of
11 Objection" or "Formal Objection;" (d) describe, in clear and concise terms,
12 the legal and factual arguments supporting the objection; (e) list
13 identifying witness(es) the objector may call to testify at the Final
14 Approval Hearing; (f) provide true and correct copies of any exhibit(s) the
15 objector intends to offer at the Final Approval Hearing; and (g) state
16 whether the objection applies only to the objector, to a specific subset of
17 the Class, or to the entire Class.

18 **c. Notice of Intent to Appear.** Class Members who timely submit valid
19 objections to the Settlement may (though are not required to) appear at the
20 Final Approval Hearing, either in person or through the objector's own
21 counsel provided the objector has first notified the Settlement
22 Administrator by sending his/her written objections to the Settlement
23 Administrator, postmarked no later than the Response Deadline.

24 **4. Request for Exclusion from the Settlement ("Opt-Out").** The Class Notice will
25 provide that Class Members who wish to exclude themselves from the Settlement
26 must mail to the Settlement Administrator a written request for exclusion by the
27 Response Deadline. The written request for exclusion must: (a) state the Class
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1 Member's name, address, telephone number, and social security number or
2 employee identification number; (b) state the Class Member's intention to exclude
3 themselves from or opt-out of the Settlement (e.g. "I want to exclude myself from
4 this settlement. I also understand that I retain all rights to sue the Defendant for the
5 claims asserted in this lawsuit."); (c) be addressed to the Settlement Administrator;
6 (d) be signed by the Class Member or his or her lawful representative; and (e) be
7 postmarked no later than the Response Deadline. If the Class Member submits a
8 request for exclusion that is not timely and/or valid then the Settlement
9 Administrator will notify such Class Member that the request is untimely or invalid.
10 Any disputes regarding the timeliness, validity or effectiveness of a request for
11 exclusion shall be decided by the Administrator consistent with the terms of this
12 Settlement Agreement, with the Parties' input, if appropriate. The date of the
13 postmark on the mailing envelope for any request for exclusion shall be the
14 exclusive means used to determine whether the request for exclusion has been
15 timely submitted.

16 If a Class Member timely submits both an objection and a request for exclusion
17 ("opt out" under Section 2.7), the request for exclusion shall supersede the
18 objection regardless of timing, and the objection shall therefore be waived.

19 **a. Effect of "Opt-Out."** Any Class Member who returns a timely, valid, and
20 executed request for exclusion will not participate in or be bound by the
21 Settlement and subsequent judgment and will not receive an Individual
22 Settlement Share or any benefit of this Settlement.

23 **b. Failure to "Opt-Out."** A Class Member who does not complete and mail
24 a timely request for exclusion will automatically be included in the
25 Settlement, will receive an Individual Settlement Share, and be bound by
26 all terms and conditions of the Settlement, if the Settlement is approved
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by the Court, and by the subsequent judgment, regardless of whether he or she has objected to the Settlement.

c. Confirmation of Authenticity. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity.

d. Report. No later than five (5) business days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

5. Revocation of Agreement by Defendant. In the event five percent (5%) or more of the Class Members opt-out of the settlement, Defendant may, at its option, void the agreement.

6. Escalation Clause. If the number of workweeks worked by all Class Members during the Class Period is ultimately determined to exceed 6,418 (5,834 workweeks + 584 (i.e., 10%), then the Gross Settlement Amount shall be increased by a pro rata amount for each additional workweek over 6,418 workweeks. However, Defendant has the right to shorten the Class Period in lieu of increasing the Gross Settlement Amount.

7. No Solicitation of Objections or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the

Settlement, or appeal from the Judgment. Plaintiff shall not respond to inquiries directed to her by Class Members but shall direct any such individuals to contact Class Counsel.

8. No Undue Publicity. Except as ordered by the Court, Plaintiff and Class Counsel will not initiate any publicity or respond to any media or other inquiries about the terms of the settlement or the case and agree to keep the terms of the settlement confidential prior to filing the motion for preliminary approval.

9. Class Member Disputes. If a Class Member disputes the basis for the calculation of their Individual Settlement Share, the Class Member must provide notice, in writing, to the Settlement Administrator before the Response Deadline. Any such challenge shall include the reasons supporting the challenge, as well as any documentation supporting his or her contention that the Individual Settlement Share calculation is incorrect. In the absence of such evidence, the Database will be controlling. The Settlement Administrator will consult with the Defendant about how to resolve the challenge, evaluate the information provided, but will make a final and unappealable decision as to the outcome of the challenge. If the Individual Settlement Share calculation is adjusted following a challenge, then the Settlement Administrator shall notify the Class Member of the adjustment.

10. Motion for Final Approval.

a. Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement Payment; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members.

1 **b. Denial or Appeal of Final Approval.** If the Court does not grant Final
2 Approval of the Settlement, or if the Court's Final Approval of the
3 Settlement is reversed or materially modified on appellate review, then
4 this Settlement will become null and void. If that occurs, the Parties will
5 have no further obligations under the Settlement, including any obligation
6 by Defendant to pay the Gross Settlement Amount or any amounts that
7 otherwise would have been owed under this Agreement. Further, should
8 this occur, the Parties agree they shall be equally responsible for the
9 Settlement Administrator's Administration Costs through that date. An
10 award by the Court of a lesser amount than sought by Plaintiff and Class
11 Counsel for the Class Representative Enhancement Payment, Attorney
12 Fee Award, Cost Award, will not constitute a material modification to the
13 Settlement within the meaning of this paragraph.

14 **c. Proposed Order and Judgment.** Upon Final Approval of the Settlement,
15 the Parties shall present to the Court a proposed Final Approval Order,
16 approving of the Settlement and entering Judgment in accordance
17 therewith. After entry of Judgment, the Court shall have continuing
18 jurisdiction over the Action for purposes of: (1) enforcing this Settlement
19 Agreement; (2) addressing settlement administration matters; and (3)
20 addressing such post-Judgment matters as may be appropriate under
21 Court rules and applicable law.

22 **11. Waiver of Right to Appeal.** Provided that the Judgment is consistent with the
23 terms and conditions of this Agreement, if Class Members do not timely object to
24 the Settlement, then the Parties and their respective counsel waive any and all rights
25 to appeal from the Judgment, including, but not limited to, all rights to any post-
26 judgment proceeding and appellate proceeding, such as a motion to vacate or set
27 aside judgment, and any extraordinary writ, and the Judgment will become non-

appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.

12. Vacating, Reversing, or Modifying Judgment on Appeal. If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount and any change to the scope of the Released Claims or Released Parties.

13. Disbursement of Settlement Shares and Payments. Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Gross Settlement Amount. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendant's Counsel and Class Counsel. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.

a. Funding the Settlement: Defendant shall wire to the Settlement Administrator the Gross Settlement Amount within ten (10) business days of the Effective Final Settlement Date.

b. Disbursement: Fifteen(15) business days after the Effective Final Settlement Date, the Settlement Administrator shall disburse: (1) the Net

1 Settlement Amount to be paid to Participating Class Members; (2) the
2 Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees
3 and costs, as approved by the Court; (3) the Class Representative
4 Enhancement Payment paid to the Class Representative, as approved by
5 the Court; (4) the Administration Costs, as approved by the Court; and (5)
6 the PAGA Payment to the LWDA and to Participating Class Members, as
7 approved by the Court.

8 **14. Final Report by Settlement Administrator.** Within ten (10) business days after
9 the disbursement of all funds, the Settlement Administrator will serve on the Parties
10 a declaration providing a final report on the disbursements of all funds.

11 **15. Uncashed Checks.** Participating Class Members must cash or deposit their
12 Individual Settlement Share checks within one hundred and eighty (180) calendar
13 days after the checks are mailed to them.

14 **a. Reminder Postcard.** If any checks are not redeemed or deposited within
15 ninety (90) calendar days after mailing, the Settlement Administrator will
16 send a reminder postcard indicating that unless the check is redeemed or
17 deposited in the next ninety (90) days, it will expire and become non-
18 negotiable, and offer to replace the check if it was lost or misplaced.

19 **b. Cy Pres.** If any checks remain uncashed or not deposited by the expiration
20 of the 90-day period after mailing the reminder notice, the Settlement
21 Administrator will, within two hundred (200) calendar days after the
22 checks are mailed, cancel the checks. All funds associated with the
23 Individual Settlement Share checks returned as undeliverable and funds
24 associated with those Individual Settlement Share checks remaining un-
25 cashed, shall be transmitted by the Settlement Administrator, in
26 conformity with California Code of Civil Procedure section 384, to the
27 *Cy Pres* Beneficiary.

1 **16. Other Legal Fees and Costs.** Except for the Attorney Fee Award and Cost

2 Award to be paid from the Gross Settlement Fund as expressly provided in this
3 Agreement and pursuant to Court Approval, the Parties agree to bear their own
4 attorneys' fees and costs related to this Action.

5
6 **J. Release of Claims.** As of the Effective Final Settlement Date, Class Members who
7 do not submit a timely and valid request for exclusion release the Released Parties from the
8 Released Claims. Participating Class Members agree not to sue or otherwise make a claim against
9 any of the Released Parties for any of the Released Claims and shall be legally barred from doing
10 the same.

11 **K. Plaintiff's Release of Claims and General Release.** As of the Effective Final
12 Settlement Date, Plaintiff shall give the following general release of claims for herself and her
13 respective spouse (is any), heirs, successors and assigns, forever release the Released Parties from
14 any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
15 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts,
16 penalties and expenses of any nature whatsoever, from the beginning of time through the date of
17 his signature on this Agreement, known or unknown, suspected or unsuspected, whether in tort,
18 contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or
19 regulation, including but not limited to all claims arising out of, based upon, or relating to his
20 employment with Defendant or the remuneration for, or termination of, such employment.
21 Plaintiff's Release of Claims also includes a waiver of California Civil Code section 1542, which
22 provides as follows:

23 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
24 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
25 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
26 **RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE**
27 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
28 **DEBTOR OR RELEASED PARTY.**

1 This release excludes any release of any claims not permitted to be released by law.

2 **L. Miscellaneous Terms.**

3 **1. No Admission of Liability.** Defendant makes no admission of liability or
4 wrongdoing by virtue of entering into this Agreement. Additionally, Defendant
5 reserves the right to contest any issues relating to class certification and liability if
6 the Settlement is not approved. Defendant denies that it has engaged in any
7 unlawful activity, has failed to comply with the law in any respect, has any liability
8 to anyone under the claims asserted in the Action, or that but for the Settlement, a
9 Class should be certified in the Action. This Agreement is entered into solely for
10 the purpose of compromising highly disputed claims. Nothing in this Agreement is
11 intended or will be construed as an admission by Defendant of liability or
12 wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle
13 the Action will have no bearing on, and will not be admissible in connection with,
14 any litigation (other than solely in connection with this Settlement).

15 **2. No Effect on Employee Benefits.** The Class Representative Enhancement
16 Payment and/or Individual Settlement Shares paid to Plaintiff and Participating
17 Class Members shall not be deemed to be pensionable earnings and shall not have
18 any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*,
19 vacation, holiday pay, retirement plans, etc.) of Plaintiff or the Participating Class
20 Members. The Parties agree that any Class Representative Enhancement Payment
21 and/or Individual Settlement Share paid to Plaintiff or the Participating Class
22 Members under the terms of this Agreement do not represent any modification of
23 Plaintiff's or Participating Class Members' previously credited hours of service or
24 other eligibility criteria under any employee pension benefit plan or employee
25 welfare benefit plan sponsored by Defendant. Further, any Class Representative
26 Enhancement Payment shall not be considered "compensation" in any year for
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1 purposes of determining eligibility for, or benefit accrual within, an employee
2 pension benefit plan or employee welfare benefit plan sponsored by Defendant.

3 **3. No Injunctive Relief.** As part of this Agreement, Defendant shall not be required
4 to enter into any consent decree, nor shall Defendant be required to agree to any
5 provision for injunctive relief. Defendant shall not be required as part of the
6 Settlement to modify or eliminate any of its personnel, compensation or payroll
7 practices, or adopt any new personnel, compensation or payroll practices.

8 **4. Plaintiff agrees to sign this Agreement and by signing this Agreement is bound**
9 **by the terms herein stated and further agrees not to request to be excluded**
10 **and agrees not to object to any of the terms of this Settlement. Any request**
11 **by Plaintiff to be excluded and/or objection by Plaintiff shall be void and of no**
12 **force or effect.**

13 **5. Integrated Agreement.** After this Agreement is signed and delivered by all Parties
14 and their counsel, this Agreement and its exhibits will constitute the entire
15 Agreement between the Parties relating to the Settlement, and it will then be
16 deemed that no oral representations, warranties, covenants, or inducements have
17 been made to any party concerning this Agreement or its exhibits, other than the
18 representations, warranties, covenants, and inducements expressly stated in this
19 Agreement and its exhibits.

20 **6. Authorization to Enter Into Settlement Agreement.** Class Counsel and
21 Defendant's Counsel warrant and represent that they are authorized by Plaintiff and
22 Defendant, respectively, to take all appropriate action required or permitted to be
23 taken by such Parties under this Agreement to effectuate its terms, and to execute
24 any other documents required to effectuate the terms of this Agreement. The Parties
25 and their counsel will cooperate with each other and use their best efforts to effect
26 the implementation of the Settlement. In the event the Parties are unable to reach
27 agreement on the form or content of any document needed to implement this
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1 Agreement, or on any supplemental provisions that may become necessary to
2 effectuate the terms of this Agreement, the Parties will seek the assistance of the
3 Court, and in all cases, all such documents, supplemental provisions, and assistance
4 of the Court will be consistent with this Agreement.

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

11 **8. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in
12 the Action in abeyance, except such proceedings necessary to implement and
13 complete the Settlement, pending the Final Approval hearing to be conducted by
14 the Superior Court.

15 **9. Amendment or Modification of Agreement.** This Agreement, and any and all
16 parts of it, may be amended, modified, changed, or waived only by an express
17 written instrument signed by counsel for all Parties or their successors-in-interest.

18 **10. Agreement Binding on Successors and Assigns.** This Agreement will be binding
19 upon, and inure to the benefit of, the successors and assigns of the Parties, as
20 previously defined.

21 **11. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that she
22 has not directly or indirectly, assigned, transferred, encumbered, or purported to
23 assign, transfer, or encumber to any person or entity any portion of any liability,
24 claim, demand, action, cause of action or rights herein released and discharged.

25 **12. Applicable Law.** All terms and conditions of this Agreement and its exhibits will
26 be governed by and interpreted according to the laws of the State of California,
27 without giving effect to any conflict of law principles or choice of law principles.
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1 **13. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective
2 counsel believe and warrant that this Agreement reflects a fair, reasonable, and
3 adequate settlement of the Action and have arrived at this Agreement through arms-
4 length negotiations, taking into account all relevant factors, current and potential.

5 **14. No Tax or Legal Advice.** The Parties understand and agree that the Parties are
6 neither providing tax or legal advice, nor making representations regarding tax
7 obligations or consequences, if any, related to this Agreement, and that Class
8 Members will assume any such tax obligations or consequences that may arise
9 from this Agreement, and that Class Members shall not seek any indemnification
10 from the Parties or any of the Released Parties in this regard. The Parties agree
11 that, in the event that any taxing body determines that additional taxes are due
12 from any Class Member, such Class Member assumes all responsibility for the
13 payment of such taxes and shall hold Defendant and the Released Parties
14 harmless. Class Members will be specifically informed that neither Defendant
15 nor Class Counsel make any representations regarding the tax implications of any
16 amounts paid under this Settlement Agreement and that if any Class Member has
17 any questions regarding those implications, they can and should consult a tax
18 expert.
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21 **15. Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the
22 interpretation, implementation, and enforcement of the terms of this Agreement and
23 all orders and judgment entered in connection therewith, and the Parties and their
24 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
25 implementing, and enforcing the Settlement embodied in this Agreement and all
26 orders and judgments in connection therewith.
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16. Invalidity of Any Provision; Severability. Before declaring any provision of this Agreement invalid, the Parties request that the Superior Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

17. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

18. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

19. Disputes. Any dispute between the Parties as to the remaining terms of the Settlement Agreement shall be referred to March Feder for further mediation and the Parties shall split his fees evenly.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Date: 02 / 19 / 2021

ELAINE MOYAL


Plaintiff

Date:

CABINETS TO GO, LLC

Defendant
Name:

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Title:

Date: 02/05/2021

CROSNER LEGAL, PC



Zachary Crosner

Blake Jones

Attorneys for Plaintiff Elaine Moyal

Date:

**JEFFER MANGELS BUTLER & MITCHELL,
LLP**

Marta M. Fernandez

Patricia Belton

Attorneys for Defendant Cabinets to Go LLC

1 Date:

CABINETS TO GO, LLC

2
3 Defendant

4 Name:

5 Title:

6 Date:

CROSNER LEGAL, PC

7 Zachary Crosner

8 Blake Jones

9 Attorneys for Plaintiff Elaine Moyal

10 Date: March 8, 2021

**JEFFER MANGELS BUTLER & MITCHELL,
LLP**

11 

12 Marta M. Fernandez

13 Patricia Belton

14 Attorneys for Defendant Cabinets to Go LLC

1 Date: 9/11/2021

CABINETS TO GO, LLC

2 By Jill Witter
3 Defendant
4 Name: Jill Witter
5 Title: Chief Legal Officer

6 Date:

CROSNER LEGAL, PC

7 Zachary Crosner
8 Blake Jones
9 Attorneys for Plaintiff Elaine Moyal

10 Date:

11 JEFFER MANGELS BUTLER & MITCHELL,
12 LLP

13 Marta M. Fernandez
14 Patricia Belton
15 Attorneys for Defendant Cabinets to Go LLC
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