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Attorneys for Defendants TMC AT WOLFE'S, INC.

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

EMILEE COMEAU, an individual,
individually and on behalf of all employees
similarly situated,

Plaintiffs,

vs.

TMC AT WOLFE'S INC., a California
corporation; and DOES 1 to 100, Inclusive,

Defendants.

Case No.: 20STCV04095

CLASS ACTION

Assigned for All Purposes To:
Honorable Stuart M. Rice
Dept.:1

**STIPULATION AND AGREEMENT TO
SETTLE CLASS ACTION**

Complaint filed: January 31, 2020
First Amended Complaint filed: April 1, 2020
Trial Date: none set

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to California Code of Civil Procedure § 382, that the settlement of this Litigation
3 shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used
4 herein shall have the meanings set forth in Article I or elsewhere in this Stipulation and Agreement
5 to Settle Class Action.

6 This Agreement is made as of the date of the latest dated signature below by Defendants
7 TMC AT WOLFE'S INC., ("Defendant"), and Plaintiff EMILEE COMEAU and the individuals
8 collectively defined below as "Settlement Class Members" who do not timely request exclusion and
9 opt out of this Settlement.

10 The Parties agree that the Litigation shall be ended, settled, resolved, and concluded by
11 agreement of Defendants to pay the maximum total Settlement Sum of **Two Hundred Thousand**
12 **Dollars (\$200,000.00)**, as provided in Section III(E)(1) below, upon the terms and conditions of this
13 Agreement and for the consideration set forth herein, including but not limited to a release of claims
14 by Plaintiff and the Settlement Class Members who do not timely request exclusion and opt out of
15 this Settlement.

16 This is a common fund Settlement without reversion to Defendants, and all Settlement funds
17 remaining after all Court approved deductions from the Settlement Sum (the "Class Member
18 Settlement Fund") will be paid to the Participating Settlement Class Members.

19 **I. DEFINITIONS**

20 Unless otherwise defined herein, the following terms used in this Agreement shall have the
21 meanings ascribed to them as set forth below:

22 A. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation and
23 Agreement" means this Stipulation and Agreement to Settle Class Action, including the attached
24 Exhibits.

25 B. "Class Period" shall mean any time between **January 31, 2016**, through February 1,
26 2022.

27 C. "Class Representative" or "Plaintiff" refers to Plaintiff **Emilee Comeau**.

28 D. "Covered Job Position" is any California non-exempt serving position, held at any

1 time from **January 31, 2016, through February 1, 2022.**

2 E. "Court" means the **California Superior Court, Los Angeles County, Stanley Mosk**
3 **Courthouse, 111 N. Hill Street, Los Angeles, CA 90012.**

4 F. "Defendant" refers to **TMC AT WOLFE'S INC.**

5 G. "Defense Counsel" or "Counsel for Defendant" is:

6 WILLIAM DECLERCQ (SBN 240538)
7 TAYLOR ENGLISH DUMA LLP
8 445 S. FIGUEROA ST., SUITE 3100
9 LOS ANGELES, CALIFORNIA 90071
10 TELEPHONE: (404) 640-5924
11 FACSIMILE: (415) 851-8868
12 WDECLERCQ@TAYLORENGGLISH.COM

11 H. "Effective Date" is the date on which Defendant fully funds the settlement, or upon
12 entry of the Judgment and Final Order in the Litigation, whichever occurs later.

13 I. "Individual Payment Amount" is the amount of money, inclusive of any employee
14 taxes withheld, that shall be paid to each Settlement Class Member who does not timely request
15 exclusion and opt out of this Settlement ("Participating Settlement Class Members"). Individual
16 Payment Amounts will be determined in accordance with Section III(E)(10) herein and may include
17 other amounts as specified in this Agreement, including penalty amounts set forth in Section
18 III(E)(6).

19 J. "Litigation" means the lawsuit entitled *Emilee Comeau, on behalf of herself and on*
20 *behalf of a Class of all other persons similarly situated, v. TMC AT WOLFE'S INC., et al.*, Los
21 Angeles Superior Court Case No. 20STCV04095.

22 K. "Parties" are Defendants, Plaintiff, and the Settlement Class Members who do not
23 timely request exclusion and opt out of this Settlement.

24 L. "PAGA Representatives" means all persons who are employed or have been
25 employed by Defendant in the State of California who, during the period April 5, 2019 to the Present
26 have worked as non-exempt employees and who were subjected to Defendant's alleged unlawful,
27 unfair or fraudulent business acts or practices in the form of Labor Code violations regarding
28

1 overtime, meal periods, rest periods, expense reimbursement, wage statements, or minimum wages
2 and/or waiting time penalties.

3 M. "PAGA Payment" means the sum of five thousand dollars (\$5,000), which shall be
4 allocated from the Maximum Settlement Amount to pay all applicable civil penalties under PAGA
5 on behalf of the Class. Seventy-five percent (75%) of the PAGA Payment, i.e. \$3,750.00, will be
6 paid to the LWDA. The remaining twenty-five percent (25%), i.e. \$1,250.00, will remain in the Net
7 Settlement Amount for distribution to Participating Class Members.

8 N. "PAGA Release" means claims for penalties that were brought based on the facts
9 alleged in Plaintiff's LWDA letter including: Labor Code §§ 558, 1194, 1197, 1197.1 and 1198; paid
10 employees for less hours than they worked by requiring them to work overtime and/or off the clock
11 in violation of Labor Code §§ 510, 1194 and 1198; failed to provide meal periods or compensation
12 in lieu thereof in violation of Labor Code §§ 226.7 and 512; failed to provide rest periods or
13 compensation in lieu thereof in violation of Labor Code §§ 226.7 and 512; failed to provide accurate
14 itemized wage statements in violation of Labor Code § 226; failed to maintain accurate payroll
15 records in violation of Labor Code § 226; failed to pay split shift premium pay in violation of Wage
16 Order No. 5-2001; failed to pay wages of terminated or resigned employees in violation of Labor
17 Code § 203; engaged in unlawful competition in violation of Cal. Business & Professions Code §§
18 17000, et seq.; and participated in unfair business practices in violation of Cal. Business &
19 Professions Code §§ 17200, et seq.

20 O. "Qualifying Work Week" refers to the number of weeks within the Class Period
21 wherein a Settlement Class Member held a Covered Job Position.

22 P. "Recovery" refers to the amount computed by the Settlement Administrator pursuant
23 to Section III(E)(10) to be recovered by Plaintiff and Participating Settlement Class Members who
24 do not timely request exclusion and opt out of this Settlement. Both Parties and their counsel
25 acknowledge that the Recovery cannot be calculated by the Settlement Administrator until after the
26 total number of Qualifying Work Weeks is determined after resolution of any disputes over the
27 number of the Qualifying Work Weeks worked by Settlement Class Members pursuant to Section
28 III(E)(11).

1 Q. “Released Claims” means only the claims alleged in the First Amended Complaint,
2 from January 31, 2016, through February 1, 2022: (1) failure to pay overtime under The Fair Labor
3 Standards Act (FLSA) [29 USC §§ 206, 207]; (2) failure to pay split shift premium pay; (3) failure
4 to pay overtime compensation; (4) failure to provide meal periods; (5) failure to provide rest periods;
5 (6) failure to provide accurate itemized wage statements; (7) failure to pay wages for hours worked;
6 (8) failure to pay wages due and payable twice monthly; (9) failure to pay wages upon termination
7 of employment; (10) Unlawful Competition and Unlawful Business Practices Section 17200, *et seq.*
8 and (11) violation of the California Labor Code, California Private Attorneys’ General Act
9 (“PAGA”) (Lab. Code §2699, *et seq.*)

10 R. “Released Parties” means Defendants and their past and present parents, subsidiaries,
11 related entities, affiliates, and the current and prior owners of **TMC AT WOLFE’S INC.**, and any
12 of these entities’ respective past and present officers, directors, stockholders, agents, managers,
13 representatives, employees, insurers, co-insurers, reinsurers, attorneys, accountants, auditors,
14 advisors, representatives, consultants, pension and welfare benefit plans, plan fiduciaries,
15 administrators, trustees, partners, predecessors, successors and assigns.

16 S. “Service Award” is the amount that shall be paid to Plaintiff and Class Representative
17 Emilee Comeau pursuant to Section III(E)(4) below.

18 T. “Settlement Administrator” means **ILYM Group, Inc.**, which the Parties have
19 agreed will be responsible for the administration of the payments to be made by Defendants from
20 the Settlement Sum and related matters under this Agreement.

21 U. “Settlement Class” or “Settlement Class Members” means all individuals who are or
22 were previously employed (1) in California; (2) by Defendants; (3) in a non-exempt service position;
23 (4) at any point from **January 31, 2016 through February 1, 2022**; (5) excluding any person who
24 has previously signed a release of wage claims.

25 S. “Settlement Sum” means the maximum and all-inclusive Settlement Sum to be paid
26 by the Defendants, and shall be limited to a total of Two Hundred Thousand Dollars (**\$200,000.00**).
27 Pursuant to the terms of this Agreement, the entire Settlement Amount will be paid by Defendant
28 and no part of the Settlement Sum will revert to Defendant.

V. “Settlement Class Counsel” is:

Richard E. Quintilone II, Esq.
 Jeffrey T. Green, Esq.
 Kyle J. Gallego
 QUINTILONE & ASSOCIATES
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 Lake Forest, CA 92630-4961
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II. **BACKGROUND.**

A. On **January 31, 2020**, Emilee Comeau filed a lawsuit in the Superior Court, Los Angeles County on behalf of herself and all other similarly situated individuals who are currently or were employed by Defendants, within the applicable statute of limitations, as nonexempt hourly employees who were allegedly not paid all regular and overtime wages due, not provided legally compliant meal and rest periods, not furnished an accurate wage statement, and not paid all wages due at the time of termination of employment. Plaintiff also alleged violation of the Business and Professions Code § 17200 *et. seq.* On **April 1, 2020**, Plaintiff filed a First Amended Class Action Complaint including a claim that Defendants violated Labor Code § 2698, *et seq.*

B. On or about **May 22, 2020**, Defendants filed their answer denying all material claims and asserting various affirmative defenses. Thereafter, the Parties engaged in formal discovery including the production of documents by Plaintiff. In preparation for mediation, the Parties also exchanged informal discovery.

C. After the informal and formal discovery, the Parties attended a mediation on **December 4, 2020**, over Zoom call with mediator **Jill Sperber Esq.** The first day of mediation did not result in a settlement After several settlement exchanges conducted informally over the following months, the Parties reached this Settlement. The mediation and settlement negotiations included discussion and examination of the Parties’ respective positions regarding the legal and factual issues pertaining to the claims asserted by Plaintiff.

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1 D. Plaintiff and Settlement Class Counsel concluded, after taking into account the
2 sharply disputed factual and legal issues involved in this Litigation, the risks attendant to further
3 prosecution, the formal and informal discovery conducted to date, and the substantial benefits
4 received and to be received pursuant to the compromise and settlement of the Litigation, that
5 settlement on the terms hereinafter set forth was in the best interest of Plaintiff and the Settlement
6 Class.

7 E. Plaintiff and Settlement Class Counsel are mindful of the problems of proof they face,
8 many of which were discussed during the mediation session and settlement negotiations. As such,
9 Settlement Class Counsel believes that the Settlement reached is fair to the Settlement Class and
10 confers substantial benefits on the Settlement Class, offering all Settlement Class Members certain
11 and meaningful recoveries in the near term. Based on its evaluation, Settlement Class Counsel
12 determined that the Settlement set forth in this Agreement is in the best interest of Plaintiff and the
13 Settlement Class.

14 F. Similarly, Defendants and Defense Counsel concluded that there were benefits
15 associated with settling. Based on the sharply disputed factual and legal issues involved in the
16 Litigation, the risks attendant to further defense, the expense and burden of protracted litigation, and
17 Defendants' desire to put the controversy to rest, Defendants and Defense Counsel believe that
18 settlement on the terms hereinafter set forth is in Defendants' best interest.

19 G. This Settlement contemplates the (a) entry of a final order approving settlement of
20 class action; and (b) discharge of all Parties and their respective counsel from liability for any and
21 all of the Released Claims. The Judgment and Final Order will have the same effect for FLSA claim
22 purposes for Settlement Class Members who opt in pursuant to Section III(E)(13).

23 **III. PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT.**

24 The Parties and their respective counsel shall take all steps that may be requested by the
25 Court relating to the approval and implementation of this Agreement and shall otherwise use their
26 respective best efforts to obtain Court approval and implement this Agreement. The procedure for
27 obtaining Court approval of and implementing this Agreement shall be as follows:

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1 A. Preliminary Approval.

2 Settlement Class Counsel will submit this Agreement to the Court for its preliminary
3 approval. The Court's preliminary approval of this Agreement shall be embodied in an Order
4 Granting Preliminary Approval of Class Action Settlement; Certification of the Settlement Class for
5 settlement purposes only, appointing Class Counsel for settlement purposes only; Setting Final
6 Fairness and Approval Hearing; and Providing for Notice of Class Action, Proposed Settlement,
7 Proposed Payment of Attorneys' Fees, and Fairness Hearing, in the form attached as **Exhibit A**
8 ("Order for Notice of Class Settlement").

9 B. Notice to Settlement Class Members.

10 The Settlement Administrator shall disseminate the Notice of Class Action, Proposed Class
11 Settlement, and Final Fairness and Approval Hearing, which the Parties will ask the Court to approve
12 in the form attached hereto as **Exhibit B** ("Notice of Class Settlement"), by giving notice by first-
13 class United States mail as described in Section III(B)(1).

14 1. Class Notice.

15 Notice shall be provided to Settlement Class Members in the following manner:

16 a. No later than **twenty (20) calendar days** after the Court's Order for Notice
17 of Class Settlement has been received by Defense Counsel, Defendants will provide the Settlement
18 Administrator with a list of all Settlement Class Members ("Class List"). This Class List shall state
19 the social security numbers and the last known home address for each such Settlement Class
20 Member. The Class List shall also state the dates of employment worked by each such Settlement
21 Class Member during the Class Period in a Covered Job Position as indicated in Defendants' records.

22 b. Within **seven (7) calendar days** of receipt of the Class List from Defendants,
23 the Settlement Administrator shall mail the Notice of Class Settlement by first-class United States
24 mail, postage prepaid, to the last known address of each Settlement Class Member, or, in the case of
25 Settlement Class Members known to be deceased, to the legal representative of the estate.

26 c. The Settlement Administrator shall mail with the Notice of Class Settlement
27 a Statement of Weeks Worked in the form attached hereto as **Exhibit C**. The Statement of Weeks
28 Worked will state the dates that the Settlement Class Member worked during the Class Period in a

1 Covered Job Position as indicated in Defendants' records, as well as their estimated Individual
2 Payment Amount based on the formula set forth in Section III(E)(10) below.

3 d. The Settlement Administrator shall mail all returned Notices within ten (10)
4 calendar days of receiving the returned Notice.

5 e. With respect to those Settlement Class Members whose Notice of Class
6 Settlement is returned to the Settlement Administrator as undeliverable, the Settlement
7 Administrator shall promptly attempt to obtain a valid mailing address by use of the Equifax, NCOA
8 ("National Change of Address") database search, and, if necessary, can perform a skip trace using
9 the Settlement Class Member's Social Security Number to locate a valid mailing address. If another
10 address is identified, the Settlement Administrator shall immediately thereafter send the Notice of
11 Class Settlement, Request for Exclusion, and the Statement of Weeks Worked by mail to the new
12 address.

13 f. All costs of the Notice of Class Settlement, whether foreseen or not, shall be
14 paid from the Settlement Sum in accordance with Section III(E)(2) below.

15 2. Declaration of Compliance.

16 No later than **twenty-one (21) court days** before the Final Fairness and Approval Hearing,
17 the Settlement Administrator shall provide Defense Counsel and Settlement Class Counsel with a
18 declaration attesting to completion of the notice process (except for any ongoing attempt to obtain
19 valid mailing addresses for, and the re-sending of, any returned Notices of Class Settlement),
20 including the steps set forth in Section III(B)(1)(c)-(d) ("Declaration of Compliance"), which shall
21 be filed with the Court by Settlement Class Counsel with the final approval motion.

22 Compliance with the procedures described in this Section shall constitute due and sufficient
23 notice to Settlement Class Members of this proposed Settlement and the Final Fairness and Approval
24 Hearing, shall not be subject to objection or collateral attack by any person or entity, and shall satisfy
25 the requirement of due process. Nothing else shall be required of, or done by, the Parties, Settlement
26 Class Counsel, Defense Counsel, or the Settlement Administrator to provide notice of the proposed
27 Settlement and the Final Fairness and Approval Hearing.

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1 C. Responses to Notice.

2 1. Requests for Exclusion from Class.

3 Any person who receives a Notice of Class Settlement may request to be excluded from the
4 Settlement Class by submitting a request for exclusion (“Request for Exclusion” or “Opt Out Form”)
5 in the form attached hereto as **Exhibit D**. Any such request must be made in accordance with the
6 terms set forth in the Notice of Class Settlement and will be timely only if postmarked no later than
7 **forty-five (45) calendar days** after the mailing of the Notice of Class Settlement by the Settlement
8 Administrator, or if otherwise agreed by the Parties, through Settlement Class Counsel and Defense
9 Counsel, in writing. A **sixty (60)** day period will apply for Class Members whose notice packages
10 were initially returned as undeliverable and are re-mailed by the Administrator to an updated address
11 discovered through skip-tracing. Settlement Class Members cannot opt out of the PAGA settlement.

12 2. Objections to Settlement.

13 Any Settlement Class Member wishing to object to the approval of this Settlement
14 (“Objecting Settlement Class Members”) may inform the Settlement Administrator in writing, and
15 may do so by mailing, of his or her intent to object by following the procedure set forth in the Notice
16 of Class Settlement at least **ten (10) court days**, before the date of the Final Fairness and Approval
17 Hearing described in Section III(D) below. A Settlement Class member also has the right to appear
18 via audio, video, or in person at the Final Fairness and Approval Hearing and voice any objections
19 or concerns with the Settlement to the Court.

20 3. Responses to Objections.

21 Counsel for the Parties shall file any response to the objections submitted by Objecting
22 Settlement Class Members at least **five (5) court days** before the date of the Final Fairness and
23 Approval Hearing, or at the Final Fairness and Approval Hearing if the Settlement Class Member
24 objects at the Final Fairness and Approval Hearing.

25 D. Final Fairness and Approval Hearing.

26 On the date set forth in the Order for Notice of Class Settlement, a Final Fairness and
27 Approval Hearing shall be held before the Court in order (1) to review this Agreement and determine
28 whether the Court should give it final approval; and (2) to consider any timely objections made

pursuant to Section III(C)(2) above and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties shall ask the Court to give final approval to this Agreement. If the Parties' request for final approval is granted, a Judgment and Final Order Approving Settlement of Class Action substantially in the form attached hereto as **Exhibit E** ("Judgment and Final Order") shall be entered in the Litigation. Within **two (2) calendar days** of receipt of the Judgment and Final Order by Settlement Class Counsel, Settlement Class Counsel shall furnish a copy of the Judgment and Final Order to the Settlement Administrator.

E. Settlement Payment Procedures.

1. Settlement Sum.

The maximum and all-inclusive Settlement Sum to be paid by the Defendants shall be limited to a total of **Two Hundred Thousand Dollars (\$200,000.00)**. All amounts to be paid by Defendants from the Settlement Sum shall be paid to a qualified settlement fund ("Qualified Settlement Fund"), which shall be administered by the Settlement Administrator. All amounts to be paid to anyone pursuant to this Agreement ("Settlement Amounts") shall be paid out of the Qualified Settlement Fund. Such Settlement Amounts shall include all amounts to be paid to Plaintiff and Settlement Class Members who do not timely request exclusion and opt out of this Settlement, as set forth in Sections III(E)(4)-(6) below; all amounts to be paid to Settlement Class Counsel as Settlement Class Counsel's Attorneys' Fees, as set forth in Section III(E)(3) below; all amounts to be paid to Settlement Class Counsel as Settlement Class Counsel's Litigation Costs, as set forth in Section III(E)(3) below; all amounts to be paid as a Service Award to Plaintiff as set forth in Section III(E)(4); all amounts to be paid as Settlement Administration Costs, as defined in Section III(E)(2) below; all amounts required to be withheld for payment of federal, state and local payroll taxes (including any employee withholdings but not including employer taxes) and any other payroll charges required to be paid or deposited with the pertinent federal, state and local taxing agencies, with respect to the Settlement Class Members' Individual Payment Amounts, and the payment to the Labor Workforce Development Agency ("LWDA") for its portion of the amount paid to settle alleged PAGA claims, as set forth in Section III(E)(6) below, and any other Settlement Amounts to be paid under this Agreement. All such Settlement Amounts to be paid under this Agreement shall

1 be paid from the Qualified Settlement Fund and Defendants shall have no obligations under this
2 Agreement beyond their obligation to make payments to the Qualified Settlement Fund with the total
3 of all such required payments by Defendants to the Qualified Settlement Fund limited to the
4 Settlement Sum. Defendants' share of payroll taxes shall not be deducted from the Settlement Sum.
5 Defendants will pay their share of payroll taxes in addition to the Settlement Sum.

6 Consistent with the terms of this Agreement, for the purposes of determining the Class
7 Member Settlement Fund, the Settlement Administrator shall first deduct the Settlement
8 Administrator Costs as described in Section III(E)(2), deduct the amount of Attorneys' Fees and
9 Litigation Costs approved by the Court to Settlement Class Counsel as described in Section III(E)(3),
10 deduct the Service Award to Plaintiff as described in Section III(E)(4), and deduct the LWDA for
11 its portion of the amount paid to settle alleged PAGA claims as described in Section III(E)(6).
12 Thereafter, once all disputes over the calculation of the Individual Payment Amounts have been
13 resolved pursuant to Section III(E)(11), the Settlement Administrator shall pay the Individual
14 Payment Amounts to Settlement Class Members who do not timely request exclusion and opt out of
15 this Settlement as described in Section III(E)(5) below, less amounts which must be paid for the
16 Settlement Class Members' share of payroll taxes related to the payment of Settlement Class
17 Members' Individual Payment Amounts. The amount of the Qualified Settlement Fund left after the
18 deduction of Settlement Administrator Costs as described in Section III(E)(2), the amount of
19 Attorneys' Fees and Litigation Costs approved by the Court to Settlement Class Counsel as described
20 in Section III(E)(3), the Service Award to Plaintiff as described in Section III(E)(4), the amount paid
21 to the LWDA to settle alleged PAGA claims as described in Section III(E)(6), and the Settlement
22 Class Members' share of payroll taxes related to the Settlement Class Members' Individual Payment
23 Amounts, will constitute the "Class Member Settlement Fund" from which to pay Settlement Class
24 Members. If the Court renders Final Approval before the date of the last payment in May 2023,
25 Defendant shall immediately issue all remaining payments left outstanding pursuant to the schedule
26 in Section III(E)(1)-(14). The Settlement Sum shall be paid according to the following schedule:

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28 ///

Month	Amount
January 2023	\$20,000.00
February 2023	\$20,000.00
March 2023	\$20,000.00
April 2023	\$20,000.00
May 2023	\$20,000.00
June 2023	\$20,000.00
July 2023	\$20,000.00
August 2023	\$20,000.00
September 2023	\$20,000.00
October 2023	\$20,000.00
TOTAL	\$200,000.00

2. Settlement Administration Costs.

All costs of administering the Settlement, including but not limited to all tax obligations, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees associated with preparing, translating, issuing and mailing any and all notices or reminders to Settlement Class Members; all costs and fees associated with computing, processing, reviewing, issuing and paying the Service Award, Settlement Amounts, interest, taxes, and any other payments to be made out of or into the Qualified Settlement Fund; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reminders, reports, or filings to be prepared in the course of administering disbursements from the Settlement Sum; and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement (“Settlement Administration Costs”), shall not exceed **\$5,000.00** shall also be paid from the Settlement Sum.

3. Attorneys’ Fees and Costs.

Subject to Court approval, Settlement Class Counsel will be paid up to **Thirty Three and a Third percent (33.3%)** of the Settlement Sum, which equals **\$66,600.00**, for attorneys’ fees (“Attorneys’ Fees”). Subject to Court approval, Settlement Class Counsel will also be paid reasonable and actual costs in prosecuting this Litigation from the Settlement Sum (“Litigation

Costs”) in a sum not to exceed **\$10,000.00**. The Attorneys’ Fees and Litigation Costs shall be paid out of the Settlement Sum. Settlement Class Counsel shall serve Defendants with copies of all documents submitted in support of their fee allocation before such documents are filed with the Court. Defendants agree not to oppose Settlement Class Counsel’s proposed fee allocation. Any amount not approved by the Court will revert to the Class Member Settlement Fund to be split pro rata between the Settlement Class Members. The Court-ordered Attorneys’ Fees and Litigation Costs shall be due and payable no later than **ten (10) calendar days** after the payment of all Settlement Amounts under Sections III(E)(2), (4) and (6), whichever date is later. Defendants shall wire funds to the Settlement Administrator for deposit into the Qualified Settlement Fund in amounts sufficient to fund payment of the Attorneys’ Fees and Litigation Costs no later than **five (5) business days** after the Effective Date.

4. Service Award Payable to Plaintiff.

Subject to Court approval, Plaintiff and Class Representative Emilee Comeau shall receive a Service Award of **ten thousand dollars (\$10,000.00)**. Plaintiff shall provide a release of claims detailed in Section V that she has against Defendants and any Released Parties. The Service Award shall be paid out of the Settlement Sum. The Service Award shall be payable no later than seven (7) business days after the Effective Date. Defendants shall wire funds to the Settlement Administrator for deposit into the Qualified Settlement Fund in amounts sufficient to fund payment of the Service Award no later than **five (5) business days** after the Effective Date. The Settlement Administrator will report the Service Award on a Form 1099, which it will provide to Plaintiff and to the pertinent taxing authorities as required by law.

5. Individual Payment Amounts Payable to Settlement Class Members.

In accordance with the procedures set forth in Sections III(E)(10) and III(E)(12), the Settlement Administrator shall pay each Settlement Class Member his or his Individual Payment Amount.

A portion of each Settlement Class Member’s Individual Payment Amount shall represent wages and a portion of which shall represent interest and a portion of which will represent penalties. **Thirty three percent (33.33%)** of each Settlement Class Member’s Individual Payment Amount

1 shall represent **wages. Thirty three percent (33.33%)** of each Settlement Class Member's
2 Individual Payment Amount shall represent interest. **Thirty three percent (33.33%)** of each
3 Settlement Class Member's Individual Payment Amount shall represent penalties including the
4 Settlement Class Member's portion of the PAGA penalties. That portion of each Settlement Class
5 Member's Individual Payment Amount representing wages will be subject to normal employee tax
6 withholdings with the Settlement Administrator remitting all employment tax withholdings directly
7 to the pertinent state and federal taxing authorities.

8 That portion of each Settlement Class Member's Individual Payment Amount constituting
9 interest or penalties will be reported on a Form 1099 provided to each Settlement Class Member,
10 with the required copies of the Form 1099's provided to the pertinent taxing authorities.

11 Any and all employer tax obligations on any amounts paid to Plaintiff and Settlement Class
12 Members under this Settlement (including any employer FICA or FUTA taxes owed by Defendants
13 or by the Qualified Settlement Fund) are to be paid by Defendants separate and apart from the
14 Settlement Sum. The Settlement Administrator shall be responsible for paying any such taxes owed
15 by Defendants and/or by the Qualified Settlement Fund (including any employer FICA or FUTA
16 taxes) in the manner and within the time prescribed by law.

17 The Parties are mindful that the total consideration payable hereunder is comprised of a
18 number of separate and distinct claims for damages and penalties by Plaintiff and the Settlement
19 Class Members. Accordingly, having considered the matter in detail, having performed their own
20 separate and independent computations and estimation of the damages and penalties potentially
21 awardable to Plaintiff at trial or arbitration, and having done the foregoing with complete and
22 satisfactory access to, and advice from, accounting and legal advisors, the Parties mutually consent
23 and agree that the Settlement Class Members' Individual Payment Amounts be apportioned among
24 the Settlement Class Members' various wage and non-wage claims in this Litigation as set forth
25 above. Moreover, the Parties mutually consent and agree, and hereby represent to the Court in this
26 judicially supervised settlement transaction, that the apportionment of the Settlement Class Members
27 Individual Payment Amounts as stated above is a reasonable and arm's length determination of the
28 character of the Individual Payment Amounts for all purposes, including for tax purposes.

1 6. Payment of PAGA Penalties to the LWDA and Settlement Class Members.

2 The Parties agree to allocate five thousand dollars (**\$5,000.00**) to the settlement of the PAGA
3 penalties alleged in the Complaint, which the Parties believe in good faith is a fair and reasonable
4 apportionment. The Settlement Administrator shall pay seventy-five percent (75%), or **\$3,750.00**,
5 of this amount to the LWDA and twenty-five percent (25%), or **\$1,250.00**, of this amount to
6 Participating Settlement Class Members. Payment shall be made to the LWDA no later than **seven**
7 **(7) business days** after the Effective Date. Defendants shall wire funds to the Settlement
8 Administrator for deposit into the Qualified Settlement Fund in amounts sufficient to make this
9 payment to the LWDA no later than **five (5) business days** after the Effective Date.

10 7. Payments to the DIR and No Residual

11 To the extent there are any payments made to Settlement Class Members that remain
12 uncashed **one hundred and eighty (180) days after mailing**, any uncashed check will be delivered
13 to the **California State Controller's office** in the name of the authorized Settlement Class Member,
14 along with the funds from the uncashed checks.

15 Additionally, this is a non-reversionary Settlement, and any amounts for the allocations of
16 payments from the Settlement Sum that are not finally approved by the Court will be added to the
17 Class Member Settlement fund to be distributed to Participating Class Members. Accordingly, there
18 will be no unpaid residuals. Therefore, the parties agree and stipulate that California Code of Civil
19 Procedure § 384 is inapplicable.

20 8. No Additional Contribution by Defendants.

21 Defendants' monetary obligations under this Agreement are limited to the amount as defined
22 as the Settlement Sum in Section III(E)(1). Defendants may not be called upon or required to
23 contribute additional monies above the Settlement Sum under any circumstances whatsoever. In the
24 event that the total number of Settlement Class Members, estimated to be **265** on **March 15, 2021**,
25 increases by **ten percent (10%)** or more before the preliminary approval hearing, Plaintiff shall have
26 the option to terminate this Agreement. All costs and expenses arising out of or in connection with
27 the performance of this Agreement shall be paid from the Settlement Sum paid by Defendants into
28 the Qualified Settlement Fund, unless expressly provided otherwise herein.

1 In the event that this Agreement is canceled, rescinded, terminated, voided, or nullified,
2 however that may occur, or the Settlement of the Litigation is barred by operation of law, or
3 invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendants will
4 cease to have any obligation to pay any portion of the Settlement Sum to the Qualified Settlement
5 Fund, or any other party under the terms of this Agreement and all previous disbursements made
6 from Defendants to the Qualified Settlement Fund will immediately revert back to Defendants, less
7 any Settlement Administration Costs incurred.

8 9. The Settlement Administrator.

9 The Parties have chosen **ILYM Group, Inc.**, to administer this Settlement and to act as the
10 Settlement Administrator. The Settlement Administrator will administer disbursements from the
11 Settlement Sum paid by Defendants into the Qualified Settlement Fund, including, but not limited
12 to, distributing the Notice of Class Settlement and Statement of Work Weeks, and calculating claims
13 against the Qualified Settlement Fund, calculating interest owed, preparing and issuing all
14 disbursements of the Settlement Amounts required to be paid to the Participating Settlement Class
15 Members who do not timely request exclusion and opt out of this Settlement, Plaintiff, Settlement
16 Class Counsel and the LWDA, and the local state and federal payroll tax authorities, tracking
17 whether Settlement Class Members have cashed issued checks and handling inquiries about the
18 calculation of the Individual Payment Amounts. The Settlement Administrator shall be responsible
19 for the timely filing of all federal, state and local tax returns of the Qualified Settlement Fund and
20 making the timely payment of any and all withholdings required with such returns. The Settlement
21 Administrator shall provide an address and toll-free telephone number to respond to Settlement Class
22 Members' inquiries about the Notice of Class Settlement and determination of the Individual
23 Payment Amounts. All questions by Settlement Class Members shall be directed to the Settlement
24 Administrator.

25 All Settlement Administration Costs associated with administering disbursements from the
26 Qualified Settlement Fund including, but not limited to, the fees and costs of the Settlement
27 Administrator and the cost of the Notice of Class Settlement, shall be paid entirely from the
28 Settlement Sum paid by Defendants into the Qualified Settlement Fund and Defendants' monetary

obligations under this Agreement is limited to the Qualified Settlement Fund. The Parties expect that the Settlement Administrator shall conduct all administration of all disbursements of the Settlement Sum.

10. Calculation of Qualifying Work Weeks Worked and Recovery.

The Settlement Administrator shall determine the total number of Qualifying Work Weeks worked by all Settlement Class Members by determining for each Settlement Class Member, the number of weeks worked in a Covered Job Position. The Settlement Administrator shall compute the value of a Qualifying Work Week ("Base Value") by dividing the amount of the Class Member Settlement Fund by the total number of Qualifying Work Weeks worked by all Settlement Class Members. The Settlement Administrator shall compute each Participating Settlement Class Member's Recovery by multiplying the Base Value by the number of Qualifying Work Weeks worked by the Participating Settlement Class Member.

The Settlement Administrator shall also determine the total number of Qualifying Work Weeks worked by all PAGA Representatives by determining for each PAGA Representatives, the number of weeks worked in a Covered Job Position. The Settlement Administrator shall compute the value of a Qualifying Work Week ("Base Value") by dividing the amount of the PAGA Representatives Settlement Fund by the total number of Qualifying Work Weeks worked by all PAGA Representatives. The Settlement Administrator shall compute each PAGA Representatives' Recovery by multiplying the Base Value by the number of Qualifying Work Weeks worked by the PAGA Representatives.

11. Resolution of Disputes

The Statement of Weeks Worked provided to each individual Settlement Class Member shall set forth the dates that the Settlement Class Member worked during the Class Period in a Covered Job Position, according to Defendants' records. Any Settlement Class Member who disputes the information shown on his or her Statement of Weeks Worked regarding the dates that the Settlement Class Member worked during the Class Period in a Covered Job Position may indicate and explain such disagreement on the Statement of Weeks Worked within forty-five (45) days of the mailing of the Statement of Weeks Worked. Any such Settlement Class Member must submit any

1 documentation relating to his or her dispute along with his or her completed Statement of Weeks
2 Worked. The Settlement Administrator shall notify Defense Counsel and Settlement Class Counsel
3 of any such dispute upon receiving notice of the dispute. The Settlement Administrator shall attempt
4 to resolve the disagreement and may request any information or assistance from Defense Counsel
5 and/or Settlement Class Counsel that the Settlement Administrator, in its sole discretion, believes
6 may assist it in resolving the disagreement. However, the Court shall have final and binding
7 authority to resolve any disputes regarding the number of Qualifying Work Weeks by any Settlement
8 Class Member and dates during the Class Period they were worked by any Settlement Class Member.
9 The Parties and their counsel shall use their best efforts to ensure that any and all such disputes are
10 resolved before the Effective Date.

11 12. Payment of Individual Payment Amounts.

12 Within **five (5) calendar days** after the payment of all Settlement Amounts under Sections
13 III(E)(2), (4) and (6) (as to the LWDA only) above, whichever date is later, the Settlement
14 Administrator shall calculate the final Individual Payment Amount to be paid to each Settlement
15 Class Member, prepare a Final Statement of Individual Payment Amounts for each Settlement Class
16 Member, and direct Defendants to wire funds from the Settlement Sum to the Settlement
17 Administrator for deposit into the Qualified Settlement Fund, which are sufficient to fund the
18 payment of these Individual Payment Amounts, inclusive of payroll taxes of the Settlement Class
19 Members and/or the Qualified Settlement Fund. Additionally, the Settlement Administrator shall
20 calculate the funds sufficient to fund the payment of Defendants' payroll tax obligations and shall
21 direct Defendants to wire such funds to the Settlement Administrator. Defendants shall wire such
22 funds within **five (5) calendar days** thereafter; the Settlement Administrator shall issue and mail the
23 settlement checks within **seven (7) calendar days** thereafter. The mailing shall be by first-class
24 United States mail to the last known mailing address of each Settlement Class Member.

25 13. Opt-In for FLSA Claims

26 The cashing of the settlement check by the Settlement Class Member shall be deemed to be
27 an opt-in for purposes of the FLSA claims referred to in the Released Claims. The Settlement
28 Administrator shall include a legend on the settlement check stating "By cashing this check, I am

1 opting into *Comeau v. TMC AT WOLFE'S INC., et al.*, Case No. 20STCV04095, under FLSA, 29
2 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement.”

3 14. Extension of Time to Pay and/or Process Claims.

4 Should the Settlement Administrator need more time than is provided under this Agreement
5 to complete any of its obligations as set forth in this Agreement, the Settlement Administrator may
6 request such additional time in writing (including an explanation of the need for additional time)
7 from the Court.

8 F. Public Statements.

9 Plaintiff and Settlement Class Counsel shall not hold any press conferences, issue any press
10 releases, seek any publicity or publish any announcements on any website with respect to this matter
11 at any time. Until the Parties submit a request for preliminary approval from the Court, Plaintiff and
12 Settlement Class Counsel will keep the terms of this Agreement confidential. Prior to final approval
13 of this Settlement, Plaintiff and Settlement Class Counsel will not discuss this Litigation or
14 Settlement or otherwise disclose the terms of this Agreement with third parties other than Settlement
15 Class Members, except (1) as necessary to effectuate this Agreement and (2) to the Parties’ tax
16 advisors. After final approval of this Settlement, Plaintiff, Defendants, and their respective Counsel
17 shall not issue any public statements with respect to the Litigation or Settlement, except as required
18 by law. Upon such final approval, Plaintiff, Defendants and their respective Counsel may issue, if
19 at all, only a mutually agreeable joint press release, although neither party is required to agree to any
20 press release of any kind. Unless otherwise agreed by Plaintiff, Defendants, and their respective
21 Counsel, any oral or written disclosure of information related to the Settlement shall be restricted to
22 the material discussed in this Stipulation and Agreement. Plaintiff, Defendants, and their respective
23 Counsel agree and acknowledge that the phrase “material discussed in this Stipulation and
24 Agreement” shall be narrowly construed. Notwithstanding the specific limitations to public
25 disclosure identified herein, Settlement Class Counsel shall not be precluded from disclosing the
26 Parties to the lawsuit and the fact that the matter settled to a Court or other Tribunal. Furthermore,
27 nothing herein limits Plaintiff’s or any Settlement Class Member’s ability to communicate with any
28

1 government agency or otherwise participate in any investigation or proceeding that may be
2 conducted by any government agency.

3 **IV. LIMITATIONS ON USE OF THIS SETTLEMENT.**

4 A. No Admission.

5 Neither the acceptance nor the performance by Defendants of the terms of this Agreement
6 nor any of the related negotiations or proceedings is or shall be claimed to be, construed as, or
7 deemed to be an admission by Defendants of the truth of any of the allegations in the Complaint, the
8 representative character of the Litigation, the validity of any of the claims that were or could have
9 been asserted by Plaintiff and/or Settlement Class Members in the Litigation, or of any liability or
10 guilt of Defendants in the Litigation.

11 B. No Disparagement

12 Both Plaintiff and Settlement Class Counsel agree not to make or cause to be made at any
13 time, any statements that disparage, are inimical to, or damage the reputation of Released
14 Parties. Plaintiff further agrees that he will not encourage or incite other current or former
15 employees of the Released Parties to disparage or assert any complaint, claim or charge, or to initiate
16 any legal proceeding, against the Released Parties. Nothing herein limits Plaintiff's or any Settlement
17 Class Member's ability to communicate with any government agency or otherwise participate in any
18 investigation or proceeding that may be conducted by any government agency.

19 C. Non-Evidentiary Use.

20 Neither this Agreement nor any of its terms shall be offered or used as evidence by any of
21 the Parties, Settlement Class Members, or their respective counsel in the Litigation or in any other
22 action or proceeding; provided, however, that nothing contained in this Section IV(C) shall prevent
23 this Agreement from being used, offered, or received in evidence in any proceeding to enforce,
24 construe, or finalize this Agreement.

25 D. No Collateral Attack.

26 This Agreement shall not be subject to collateral attack by any Settlement Class Member or
27 any recipient of the Notice of Class Settlement after the Judgment and Final Order described in
28 Section III(D) is entered. Such prohibited collateral attacks shall include but not be limited to claims

1 that the Qualifying Work Weeks attributed to the Settlement Class Member was erroneous or that
2 the Settlement Class Member failed for any reason to receive timely notice of the procedure for
3 disputing the calculation of his or her Individual Payment Amount.

4 E. Nullification.

5 1. If (a) the Court should for any reason fail to certify a class for settlement; or (b) the
6 Court should for any reason fail to approve this Settlement in the form agreed to by the Parties; or
7 (c) the Court should for any reason fail to enter the Judgment and Final Order; or (d) the Judgment
8 and Final Order is reversed, modified, or declared or rendered void, then (i) this Agreement shall be
9 considered null and void, (ii) neither this Agreement nor any of the related negotiations or
10 proceedings shall be of any force or effect, (iii) all Parties to this Agreement shall stand in the same
11 position, without prejudice, as if the Agreement had been neither entered into nor filed with the
12 Court, and (iv) Settlement Class Counsel shall make repayment of any disbursements it received
13 from the Settlement Sum.

14 2. Invalidation of any material term of this Agreement shall invalidate this Agreement
15 in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions
16 shall remain in full force and effect. The material terms are all terms set forth Sections III(E),
17 IV(E)(2) and Article V herein.

18 3. In the event that for any reason final distribution of the Settlement Sum does not
19 occur (for example, because this Agreement and/or the Judgment and Final Order is modified or
20 reversed on appeal), the entire Settlement Sum shall remain the sole property of Defendants and any
21 sums previously paid or distributed shall be returned to Defendants (minus any administrative
22 expense and fees incurred by the Settlement Administrator).

23 4. In the event of a timely appeal from the Judgment and Final Order, the Judgment and
24 Final Order shall be stayed and the Settlement Sum shall not be distributed to Settlement Class
25 Members pending the completion of the appeal.

26 V. RELEASE.

27 It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge
28 disputes and claims alleged in the Litigation. Except for Settlement Class Members who submit a

1 timely request for exclusion from the Class in accordance with Section III(C)(1), upon entry of the
2 Judgment and Final Order in the Litigation, Plaintiff and each and every Settlement Class Member
3 shall be bound by this Agreement and shall have recourse exclusively to the benefits, rights, and
4 remedies provided hereunder. Plaintiff and each and every Settlement Class Member shall be
5 deemed to have, and by operation of the Judgment and Final Order shall have fully, finally, and
6 forever released, relinquished, and discharged each and all of the Released Parties from the Released
7 Claims. With respect to any FLSA claims, by cashing the settlement check referred to in Section
8 III(E)(13), a Settlement Class Member shall be deemed to have opted-in and to have, and by
9 operation of the Judgment and Final Order shall have fully, finally, and forever released,
10 relinquished, and discharged each and all of the Released Parties from any and all FLSA claims.

11 Plaintiff, the Settlement Class, and each and every Settlement Class Member who does not
12 submit a timely request for exclusion from the Class in accordance with Section III(C)(1) shall be
13 deemed to have acknowledged and agreed that: (1) their claims for missed meal and rest breaks,
14 overtime compensation, minimum wages, wages for all hours worked, statutory and civil penalties,
15 and any other payments and/or penalties in the Litigation are disputed; and (2) the payments set forth
16 in Section III(E)(5) above constitute full payment of any amounts allegedly due to them. In light of
17 the payment by Defendants of all amounts due to them, Plaintiff, the Settlement Class, and each and
18 every Settlement Class Member who does not submit a timely request for exclusion from the Class
19 in accordance with Section III(C)(1) shall be deemed to have acknowledged and agreed that
20 California Labor Code § 206.5 is not applicable to the Parties hereto. That section provides in
21 pertinent part as follows:

22 An employer shall not require the execution of any release of a claim or right on
23 account of wages due, or to become due, or made as an advance on wages to be earned,
unless payment of those wages has been made.

24 Each Settlement Class Member who does not submit a timely request for exclusion from the
25 Class in accordance with Section III(C)(1) shall be deemed to have made the foregoing Release as
26 if by manually signing it.

27 In addition to the release provided above with respect to all Settlement Class Members who
28 do not submit a timely request for exclusion from the Class in accordance with Section III(C)(1),

1 and for a valuable consideration, the receipt and adequacy of which is hereby acknowledged and
2 except as specifically provided below, Plaintiff on behalf of herself, and each of his heirs, executors,
3 administrators, attorneys, devisees, successors, and assigns, upon final approval of this Settlement
4 and payment of the agreed upon consideration, does hereby release and forever discharge the
5 Released Parties of the Released Claims and PAGA Release.

6 The Released Claims of Plaintiff herein include only the claims alleged in the Complaint,
7 from January 31, 2016, through February 1, 2022, including: (1) failure to pay overtime under The
8 Fair Labor Standards Act (FLSA) [29 USC §§ 206, 207]; (2) failure to pay split shift premium pay;
9 (3) failure to pay overtime compensation; (4) failure to provide meal periods; (5) failure to provide
10 rest periods; (6) failure to provide accurate itemized wage statements; (7) failure to pay wages for
11 hours worked; (8) failure to pay wages due and payable twice monthly; (9) failure to pay wages upon
12 termination of employment; (10) Unlawful Competition and Unlawful Business Practices Section
13 17200, *et seq.*; and (11) violation of the California Labor Code, California Private Attorneys'
14 General Act ("PAGA") (Lab. Code §2699, *et seq.*).

15 The released claims further included, all claims for penalties that were brought based on the
16 facts alleged in Plaintiff's LWDA letter including: Labor Code §§ 558, 1194, 1197, 1197.1 and 1198;
17 paid employees for less hours than they worked by requiring them to work overtime and/or off the
18 clock in violation of Labor Code §§ 510, 1194 and 1198; failed to provide meal periods or
19 compensation in lieu thereof in violation of Labor Code §§ 226.7 and 512; failed to provide rest
20 periods or compensation in lieu thereof in violation of Labor Code §§ 226.7 and 512; failed to
21 provide accurate itemized wage statements in violation of Labor Code § 226; failed to maintain
22 accurate payroll records in violation of Labor Code § 226; failed to pay split shift premium pay in
23 violation of Wage Order No. 5-2001; failed to pay wages of terminated or resigned employees in
24 violation of Labor Code § 203; engaged in unlawful competition in violation of Cal. Business &
25 Professions Code §§ 17000, *et seq.*; and participated in unfair business practices in violation of Cal.
26 Business & Professions Code §§ 17200, *et seq.*

27 This Agreement does not release claims that cannot be released as a matter of law, including
28 but not limited to claims for indemnity under California Labor Code § 2802, workers' compensation

benefits, or any right to file an application for award for original information submitted pursuant to Section 21F of the Securities Exchange Act of 1934.

VI. MISCELLANEOUS PROVISIONS.

A. Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff, Settlement Class Counsel, and Defense Counsel who executed this Agreement and (b) approved by the Court.

B. Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Settlement Class Member, Settlement Class Counsel, or Defense Counsel without the express written consent of each Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person.

C. Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

D. Entire Agreement.

This Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties hereto with respect to the subject matter contained herein. In case of any conflict between text contained in Articles I through VI of this Agreement and text contained in Exhibits to this Agreement, the former shall be controlling. There are no restrictions, promises, representations, warranties, covenants, or undertakings governing the subject matter of this Agreement other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Litigation.

///

1 E. Waiver of Compliance.

2 Any failure of any Party, Defense Counsel, and/or Settlement Class Counsel hereto to comply
3 with any obligation, covenant, agreement, or condition herein may be expressly waived in writing,
4 to the extent permitted under applicable law, by the Party or Parties and their respective counsel
5 hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
6 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
7 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

8 F. Counterparts.

9 This Agreement, and any amendments hereto, may be executed in any number of
10 counterparts and any Party and/or their respective counsel hereto may execute any such counterpart,
11 each of which when executed and delivered shall be deemed to be an original and all of which
12 counterparts taken together shall constitute but one and the same instrument. It shall not be necessary
13 in making proof of this Agreement or any counterpart hereof to produce or account for any of the
14 other counterparts.

15 G. Attorneys' Fees and Costs.

16 Neither Settlement Class Counsel nor any other attorneys acting for, or purporting to act for
17 the Settlement Class, Settlement Class Members, or Plaintiff may recover or seek to recover any
18 amounts for fees, costs, or disbursements from the Released Parties or the Settlement Sum except as
19 expressly provided herein.

20 H. Meet and Confer Regarding Disputes.

21 Should any dispute arise among the Parties or their respective counsel regarding the
22 implementation or interpretation of this Agreement, a representative from Settlement Class Counsel
23 and a representative from both Defense Counsel firms shall meet and confer in an attempt to resolve
24 such disputes prior to submitting such disputes to the Court.

25 I. Jurisdiction of the Court.

26 The Parties agree that this Settlement Agreement shall be enforceable by the Court pursuant
27 to California Code of Civil Procedure § 664.6. The Court shall retain jurisdiction with respect to the
28 interpretation, implementation, and enforcement of the terms of this Agreement and all orders and

judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

IT IS SO STIPULATED.

Dated: December 22, 2022

QUINTILONE & ASSOCIATES

DocuSigned by:

By: Richard E. Quintilone II

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RICHARD E. QUINTILONE II.

JEFFREY T. GREEN.

KYLE J. GALLEG0.

Attorneys for Plaintiff EMILEE COMEAU,
individually, and on behalf of all other
employees similarly situated

Dated: December 22, 2022

DeClercq Law, P.C.

By: William B. Declercq

WILLIAM B. DECLERCQ

Attorneys for Defendant TMC at WOLFE'S
INC.

Dated: December 22, 2022

EMILEE COMEAU, on behalf of herself
and on behalf of a Class of all other persons
similarly situated

DocuSigned by:

Emilee Comeau

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EMILEE COMEAU

Dated: Dec 22, 2022

TMC AT WOLFE'S INC.

Anthony Villegas

Anthony Villegas

Authorized Agent for TMC AT WOLFE'S
INC.