

1 **AEGIS LAW FIRM, PC**

2 KASHIF HAQUE, State Bar No. 218672

3 SAMUEL A. WONG, State Bar No. 217104

4 JESSICA L. CAMPBELL, State Bar No. 280626

5 jcampbell@aegislawfirm.com

6 KRISTY CONNOLLY, State Bar No. 328477

7 kconnolly@aegislawfirm.com

8 9811 Irvine Center Drive, Suite 100

9 Irvine, California 92618

10 Telephone: (949) 379-6250

11 Facsimile: (949) 379-6251

12 Attorneys for Plaintiffs, Evangeline Urcia and Lita Melinda Andre, individually,
13 and on behalf of all others similarly situated.

14 **COWDREY JENKINS, LLP**

15 Sean Cowdrey, State Bar No. 156115

16 400 West Ventura Boulevard, Suite 230

17 Camarillo, CA 93010

18 Telephone: (805) 472-6050

19 scowdrey@cowdreyjenkins.com

20 Attorneys for Defendant CareChoices Hospice and Palliative Services, Inc.

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

22 **FOR THE COUNTY OF ORANGE**

23 EVANGELINE URCIA AND LITA MELINDA
24 ANDRE, individually and on behalf of all others
25 similarly situated,

26 Plaintiffs,

27 vs.

28 CARECHOICES HOSPICE AND PALLIATIVE
SERVICES, INC., a California corporation; and
DOES 1 through 20, inclusive,

Defendants.

Case No. 30-2020-01139782-CU-OE-CXC

*Assigned for all purposes to:
Hon. Judge William Claster
Dept. CX104*

JOINT STIPULATION OF SETTLEMENT

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiffs Evangeline Urcia and Lita Melinda
7 Andre (“Named Plaintiffs”) and the Class Members, on the one hand, and Defendant CareChoices
8 Hospice and Palliative Services, Inc. (“CareChoices” or “Defendant”), on the other hand. Named
9 Plaintiffs and Defendant collectively are referred to in this Agreement as “the Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the settlement amount of One Million Four Hundred
12 Thousand Dollars (\$1,400,000.00) as provided in Section 3.06(a) below (“Gross Settlement
13 Amount”) pursuant to the terms and conditions of this Agreement and for the consideration set forth
14 herein, including but not limited to, a release of all claims by Named Plaintiffs and the Class Members
15 as set forth herein.

16 **ARTICLE I**

17 **DEFINITIONS**

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

20 a. “Action” means the action described as follows: *Evangeline Urcia and Lita Melinda*
21 *Andre, individually and on behalf of all others similarly situated v. Carechoices Hospice and*
22 *Palliative Services, Inc.*; and DOES 1 through 20, inclusive,” Case No. 30-2020-01139782-CU-OE-
23 CXC, commenced on March 18, 2020, in the Superior Court of the State of California for the County
24 of Orange.

25 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
26 Exhibit(s).

27 c. “Class” means all current and former non-exempt employees who are or were
28 employed by Defendant in California at any time during the Class Period.

- 1 d. "Class Counsel" means the attorneys for the Class and the Class Members, who are:
2 AEGIS LAW FIRM, PC
3 Kashif Haque
4 Samuel A. Wong
5 Jessica L. Campbell
6 Kristy Connolly
7 9811 Irvine Center Drive, Suite 100
8 Irvine, California 92618
9 Telephone: (949) 379-6250
10 Facsimile: (949) 379-6251
- 11 e. "Class List" means a list based on Defendant's business records that identifies each
12 Class Member's name, last known home or mailing address, Social Security number or, as
13 applicable, other taxpayer identification number, dates of employment, and the number of Qualifying
14 Workweeks worked during the Class Period.
- 15 f. "Class Member(s)" means all members of the Class.
- 16 g. "Class Period" means March 18, 2016 through March 10, 2022.
- 17 h. "Court" means the California Superior Court for the County of Orange, where the
18 Action is currently pending.
- 19 i. "Date of Finality" means the later of the following: (1) the date the Final Order is
20 signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no
21 appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or
22 other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)
23 days after the appeal is withdrawn, abandoned, or dismissed, or after an appellate decision affirming
24 the Final Order becomes final.
- 25 j. "Defendant" means Defendant CareChoices Hospice and Palliative Services, Inc.
- 26 k. "Defense Counsel" means counsel for Defendant:
27 **COWDREY JENKINS, LLP**
28 Sean Cowdrey, State Bar No. 156115
400 West Ventura Boulevard, Suite 230
Camarillo, CA 93010
Telephone: (805) 472-6050

1 l. “Disposition” means the method by which the Court approves the terms of the
2 Settlement and retains jurisdiction over its enforcement, implementation, construction,
3 administration, and interpretation.

4 m. “Final Order Approving Settlement of Class Action” or “Final Order” means the final
5 formal court order signed by the Court following the Final Fairness and Approval Hearing in
6 accordance with the terms herein, approving this Agreement.

7 n. “Gross Settlement Amount” means One Million Four Hundred Thousand Dollars
8 (\$1,400,000.00) to be paid by Defendant as provided by this Agreement to settle this Action. All
9 payments to the Class, administration costs, attorney’s fees and costs, and Incentive Awards,
10 pursuant to Section 3.06(a) below, shall be paid out of the Gross Settlement Amount. The employer’s
11 share of payroll taxes arising from the payments made under this settlement shall be paid by
12 Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement
13 Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross
14 Settlement Amount shall revert to Defendant.

15 o. “Incentive Awards” means a monetary amount of up to Ten Thousand Dollars
16 (\$10,000.00) for each of the Named Plaintiffs (\$20,000 total), subject to Court approval, in
17 recognition of their effort and work in prosecuting the Action on behalf of Class Members, and for
18 their general release of claims.

19 p. “Individual Settlement Payment(s)” means each Participating Class Member’s
20 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined
21 by the calculations provided in this Agreement.

22 q. “LWDA” means The State of California Labor and Workforce Development Agency.

23 r. “LWDA Payment” means 75% of the \$60,000 allocated to the settlement of PAGA
24 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of
25 this Agreement, as provided for below.

26 s. “Motion for Final Approval” means Plaintiffs’ submission of a written motion,
27 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
28

1 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
2 to enter a Final Order in this Action.

3 t. "Motion for Preliminary Approval" means Plaintiffs' submission of a written motion,
4 including any evidence as may be required for the Court to grant preliminary approval of the
5 Settlement as required by Rule 3.769 of the California Rules of Court.

6 u. "Named Plaintiffs" means Evangeline Urcia and Lita Melinda Andre.

7 v. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
8 administration costs, Class Counsels' attorney's fees and costs, Incentive Awards, and LWDA
9 Payment, pursuant to Section 3.06(a)-(f) below.

10 w. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
11 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
12 to Section 3.04(b) below.

13 x. "Notice Packet" means collectively and in a form substantially similar to, the Notice
14 of Class Action Settlement attached hereto as **Exhibit A**, the Dispute Form attached hereto as
15 **Exhibit B**, and the Opt-Out Form Attached hereto as **Exhibit C**, all subject to Court approval.

16 y. "PAGA" means the California Private Attorneys General Act of 2004, which is
17 codified in California Labor Code §§ 2698 *et seq.*

18 z. "PAGA Settlement Amount" means the portion of the Gross Settlement Amount
19 allocated to the resolution of PAGA Group Members' claims arising under PAGA. The Parties have
20 agreed that the PAGA Settlement Amount is Sixty Thousand Dollars (\$60,000), subject to Court
21 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
22 remaining 25% will be distributed to PAGA Group Members.

23 aa. "PAGA Group Members" means all Class Members employed by Defendant at any
24 time between March 18, 2019 through March 10, 2022 ("PAGA Period").

25 bb. "Participating Class Member(s)" is defined as a Class Member who does not timely
26 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
27 Settlement Amount automatically without the need to return a claim form. Each Participating Class
28 Member will be paid his/her Individual Settlement Payment.

1 cc. "Preliminary Approval Date" means the date the Court preliminarily approves the
2 Settlement embodied in this Agreement.

3 dd. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury
4 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
5 Administrator for the benefit of Participating Class Members.

6 ee. "Qualifying Workweeks" means the number of weeks that Class Members worked
7 for Defendant as non-exempt employees during the Class Period.

8 ff. "Released Parties" means Defendant.

9 gg. "Response Deadline" means the deadline by which Class Members must postmark or
10 fax to the Settlement Administrator requests for exclusion or written notices of objection. The
11 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
12 the Settlement Administrator, unless the sixth (60th) calendar day falls on a Sunday or federal
13 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
14 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
15 mailing.

16 hh. "Settlement Administration Costs" means all costs incurred by the Settlement
17 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
18 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
19 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
20 of checks to Class Counsel for attorneys' fees and costs, to Named Plaintiffs for their Incentive
21 Awards, and to the LWDA. The Settlement Administration Costs shall be paid from the Gross
22 Settlement Amount.

23 ii. "Settlement Administrator" means ILYM Group, Inc., which the Parties have agreed
24 will be responsible for the administration of the Individual Settlement Payments to be made by
25 Defendant from the Gross Settlement Amount and related matters under this Agreement.

26 ARTICLE II

27 CONTINGENT NATURE OF THE AGREEMENT

28 Section 2.01: Stipulation of Class Certification for Settlement Purposes

1 Because the Parties have stipulated to the certification of the Class with respect to all causes
2 of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and
3 final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis.
4 This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality
5 does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement
6 to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification
7 of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to
8 certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date
9 of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the
10 Class as to Defendant will be vacated and Named Plaintiffs, Defendant, and the Class will be returned
11 to their positions with respect to the Action as if the Agreement had not been entered into. In the
12 event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving
13 certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall
14 not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in
15 this Agreement, the fact that Defendant did not oppose the certification of a Class under this
16 Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used
17 or cited thereafter by any person or entity, including in any manner whatsoever, including without
18 limitation any contested proceeding relating to the certification of any class. If the Date of Finality
19 does not occur, this Agreement shall be deemed null and void, shall be of no force or effect
20 whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly
21 reserves the right to challenge the propriety of class certification in the Action for any purpose, if the
22 Date of Finality does not occur.

23 The Parties and their respective counsel shall take all steps that may be requested by the Court
24 relating to the approval and implementation of this Agreement and shall otherwise use their
25 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not
26 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
27 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
28 resolution, the Parties agree to seek the assistance of mediator Gig Kyriacou to resolve the dispute.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ARTICLE III

PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT

The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

Section 3.01: Motion for Conditional Class Certification and Preliminary Approval

Named Plaintiffs will bring a motion before the Court for an order conditionally certifying the Class to include all claims pled in the Action based on the preliminary approval of this Agreement. The date that the Court grants preliminary approval of this Agreement will be the “Preliminary Approval Date.”

Section 3.02: The Settlement Administrator

The Parties have chosen ILYM Group, Inc. to administer this Settlement and to act as the Settlement Administrator, including but not limited to distributing and responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the Individual Settlement Payment checks and distributing them to Participating Class Members, establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys’ fees and costs, the Incentive Award checks to Named Plaintiffs, and the employer payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall expressly agree to all of the terms and conditions of this Agreement.

All costs of administering the Settlement, including but not limited to all costs and fees associated with preparing, issuing and mailing any and all notices to Class Members and/or Participating Class Members, all costs and fees associated with computing, processing, reviewing, and mailing the Individual Settlement Payments, 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 checks, notices, reports, or filings to be prepared in the course of administering disbursements from the Net Settlement Amount, 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 be paid to the Settlement Administrator from the Gross Settlement Amount.

1 **Section 3.03: Notice to Class Members**

2 No later than five (5) business days after the Preliminary Approval Date, Defendant will
3 provide the Settlement Administrator with a “Class List” in electronic format based on its business
4 records, identifying the names of the Class Members, their last known home addresses, Social
5 Security numbers or, as applicable, other taxpayer identification number, their dates of employment
6 and weeks worked during the Class Period.

7 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
8 Administrator will send Class Members, by first-class mail, at their last known address, the Court
9 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
10 Settlement Class. The Notice Packet will include a calculation of the Class Member’s approximate
11 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
12 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
13 Settlement Administrator will check all Class Member addresses against the National Change of
14 Address database and shall update any addresses before mailing. The Settlement Administrator will
15 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
16 Notice Packet was undeliverable. If a Class Member’s notice is re-mailed, the Class Member shall
17 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
18 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class
19 Members shall not be required to submit claim forms in order to receive a proportional share of the
20 Net Settlement Amount.

21 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
22 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
23 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
24 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
25 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
26 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
27 that reasonable means be used to locate Class Members and that the Settlement Administrator be
28

1 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
2 Individual Settlement Payments to all Participating Class Members.

3 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
4 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
5 status report provided to the Parties.

6 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
7 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
8 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
9 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
10 Member.

11 If at the conclusion of the check cashing period the Class Member's Notice Packet and
12 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
13 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
14 procedures set forth in Section 3.06(f) below.

15 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
16 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
17 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
18 for and re-sending of any returned Notice Packets, as well as the number of valid requests for
19 exclusion and objections that the Settlement Administrator received.

20 **Section 3.04: Responses to Notice**

21 **a. Class Member Disputes**

22 If any Class Member disagrees with Defendant's records as to his or her Qualifying
23 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
24 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
25 and submit such writing to the Settlement Administrator by the Response Deadline, along with any
26 supporting documentation. The Notice Packet shall contain a Dispute Form substantially in the form
27 attached hereto as **Exhibit B**. The Notice of Class Action Settlement will also provide a method for
28 the Class Member to challenge the employment data on which his or her Individual Settlement

1 Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and
2 the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the
3 Settlement Administrator will be the final arbiter of the Qualifying Workweeks for each Class
4 Member during the Class Period based on the information provided to it.

5 **b. Requests for Exclusion from Class**

6 In order for any Class Member to validly exclude himself or herself from the Class and this
7 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
8 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
9 postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement
10 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
11 contain instructions on how Class Members can validly exclude himself or herself from the Class
12 and this Settlement (*i.e.*, opt out). The date of the initial mailing of the Notice Packet, and the date
13 the signed request for exclusion was postmarked, shall be conclusively determined according to the
14 records of the Settlement Administrator. Any Class Member who timely and validly requests
15 exclusion from the Class and this Settlement will not be entitled to any Individual Settlement
16 Payment, will not be bound by the terms and conditions of this Agreement, and will not have any
17 right to object, appeal, or comment thereon.

18 Any Class Member who fails to timely submit a request for exclusion shall automatically be
19 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are
20 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
21 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action
22 and/or released in this Agreement will be extinguished.

23 **c. Objections to Settlement**

24 For any Class Member to object to this Agreement, or any term of it, the person making the
25 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
26 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
27 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
28 a written statement of the grounds of objection, signed by the objecting Class Member or his or her

1 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
2 the date the signed objection was postmarked, shall be conclusively determined according to the
3 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
4 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
5 Members may also appear at the final approval hearing to object. The Court retains final authority
6 with respect to the consideration and admissibility of any Class Member objections.

7 **d. Encouragement of Class Members**

8 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
9 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from
10 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from
11 Class Members.

12 **e. Right of Plaintiffs to Adjust Gross Settlement Amount**

13 Defendant has estimated the number of Class Members as 308 and the number of workweeks
14 is 32,347. If the number of Class Members or workweeks increases by more than 10% (which is
15 more than 338 Class Members or 35,581 workweeks) as of the end of the Class Period, there will be
16 a pro rata adjustment to the Gross Settlement Amount equal to \$4,545.45 per additional class member
17 or \$43.28 per additional workweek, whichever is greater.

18 **Section 3.05: Final Fairness and Approval Hearing**

19 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
20 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
21 and determine whether the Court should give it final approval, and (2) consider any objections made
22 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the
23 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a
24 Proposed Final Order Approving Settlement of Class Action.

25 **Section 3.06: Settlement Payment Procedures**

26 **a. Settlement Amount**

27 In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the
28 Gross Settlement Amount in the amount of One Million Four Hundred Thousand Dollars

1 (\$1,400,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The
2 Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class
3 Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement
4 Amount, and the Incentive Payments.

5 Within ten (10) calendar days after the Court signs the Final Order, Defendant shall transfer
6 the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth
7 herein, into a QSF established by the Settlement Administrator either directly or by sending the funds
8 to the Settlement Administrator to be deposited and distributed. The Settlement Administrator will use
9 these funds to fund payment of the Individual Settlement Payments to Participating Class Members,
10 Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and the
11 Settlement Administration Costs.

12 Within ten (10) court days after receiving Defendants' final payment, funding the Gross
13 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments
14 to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the
15 Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement
16 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a
17 search based on the National Change of Address Database to update and correct for any known or
18 identifiable address changes.

19 **b. Payment of Attorneys' Fees and Costs**

20 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
21 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Four
22 Hundred Sixty-Six Thousand Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents
23 (\$466,666.67). Class Counsel shall submit an application for an award of costs not to exceed Thirty
24 Thousand Dollars (\$30,000.00). Such application for attorneys' fees and costs shall be heard by the
25 Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any such
26 application in these amounts. Class Counsel shall serve Defendant with copies of all documents
27 submitted in support of their application for an award of attorneys' fees and costs.
28

1 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
2 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
3 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
4 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
5 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
6 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
7 will be reallocated to the Net Settlement Amount.

8 **c. Payment of Settlement Administration Costs**

9 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
10 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
11 Seven Thousand Five Hundred Dollars (\$7,500.00).

12 **d. Payment of Incentive Award to Named Plaintiffs**

13 Subject to Court approval, the Named Plaintiffs shall each receive an Incentive Award of up
14 to Ten Thousand Dollars (\$10,000) each, the request for which Defendant will not object to or
15 oppose. The Incentive Awards shall be paid out of the Gross Settlement Amount and shall not
16 constitute payment to any Participating Class Member(s) other than Named Plaintiffs. To the extent
17 that the Court approves less than the amount of incentive award that Class Counsel request, the
18 difference between the requested and awarded amounts will be reallocated to the Net Settlement
19 Amount.

20 Because it is the intent of the Parties that the Incentive Awards represent payment to Named
21 Plaintiffs for their service to the Class Members, and not wages, the Settlement Administrator will
22 not withhold any taxes from the Incentive Awards. The Incentive Awards will be reported on a Form
23 1099, which the Settlement Administrator will provide to Named Plaintiffs and to the pertinent taxing
24 authorities as required by law.

25 **e. Payment to the Labor and Workforce Development Agency**

26 In consideration of claims made under PAGA, Class Counsel will request that the Court
27 approve allocation of Sixty Thousand Dollars (\$60,000) of the Gross Settlement Amount to these
28 claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and

1 Workforce Development Agency (“LWDA Payment”), and twenty-five percent (25%) will be paid
2 to the Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose
3 this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount.
4 The Court’s adjustment, if any, of the amount allocated to Named Plaintiffs’ PAGA claim in the
5 Action, will not invalidate this Agreement.

6 **f. Payment of Individual Settlement Payments to Participating Class Members**

7 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
8 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
9 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
10 each Class Member. To calculate the minimum amount each Class Member will receive based on
11 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
12 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated
13 on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class
14 Member’s approximate Individual Settlement Payment amount will be included in his or her Notice
15 Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to
16 Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the
17 individual Qualifying Workweeks worked during the Class Period by each Participating Class
18 Member.

19 The PAGA Settlement Amount to be distributed to PAGA Group Members shall be divided
20 between all PAGA Group Members in proportion to the number of pay periods that each PAGA
21 Group Member worked during the PAGA Period. To calculate the minimum amount each PAGA
22 Group Member will receive based on their individual pay periods, 25% of the PAGA Settlement
23 Amount (or \$15,000) will be divided by the total number of pay periods by all PAGA Group
24 Members during the PAGA Period and then allocated on a pro rata basis. Pay periods will be rounded
25 up to the next whole integer. Each PAGA Group Member’s approximate Individual PAGA
26 Settlement Payment Amount will be included in his or her Notice Packet. After final approval by the
27 Court, the PAGA Settlement Amount will be dispersed to all PAGA Group Members on a pro rata
28

1 basis based on the number of pay periods worked during the PAGA Period by each PAGA Group
2 Member.

3 Each Individual Settlement Payment will represent wages and penalties allocated using the
4 following formula: 20% allocated to wages; 80% allocated to interest and penalties. The PAGA
5 Settlement Amount to be distributed to PAGA Group Members are to be considered 100% penalties.
6 The amounts paid as wages shall be subject to all tax withholdings customarily made from an
7 employee's wages and all other authorized and required withholdings and shall be reported by W-2
8 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement
9 Amount. The amounts paid as penalties and interest shall be subject to all authorized and required
10 withholdings other than the tax withholdings customarily made from employees' wages and shall be
11 reported by IRS 1099 forms.

12 No later than ten (10) business days after receiving the Gross Settlement Amount from
13 Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual
14 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the
15 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee
16 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of
17 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the
18 extent required by law for the interest and penalty portions of the Individual Settlement Payments.
19 Participating Class Members shall have 180 days from the date their Individual Settlement Payment
20 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration
21 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller
22 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

23 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
24 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
25 a mass search on LexisNexis or a comparable databases based on set criteria and, if another address
26 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the
27 Settlement Administrator is unable to obtain a valid mailing address through this process, the
28

1 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
2 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

3 **g. Default on Payment.**

4 Defendant's failure to fund the Gross Settlement Amount within ten (10) calendar days after
5 the date that the Court grants final approval of the Settlement shall be considered a default. In the
6 event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will
7 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed
8 payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to
9 the Settlement Administrator. In the event Defendant fails to cure the default within the times set
10 forth herein, Named Plaintiffs may elect to enter judgment against Defendant, on an ex parte basis,
11 for the balance of the unpaid Gross Settlement Amount to date, and Named Plaintiffs will be entitled
12 to recover interest at ten percent (10%) per year from the due date for such payment and reasonable
13 attorneys' fees and costs.

14 **h. No Credit Toward Benefit Plans.**

15 The Individual Settlement Payments made to Participating Class Members under this
16 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
17 calculate any additional benefits under any benefit plans to which any Class Members may be
18 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
19 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
20 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
21 Members may be entitled under any benefit plans.

22 **ARTICLE IV**

23 **LIMITATIONS ON USE OF THIS SETTLEMENT**

24 **Section 4.01: No Admission**

25 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a
26 Class should not have been certified in the Action. This Agreement is entered into solely for the
27 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
28 construed as an admission of liability or wrongdoing by Defendant.

1 **Section 4.02: Non-Evidentiary Use**

2 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
3 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
4 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
5 including but not limited to, evidence of a presumption, concession, indication, or admission by any
6 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
7 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
8 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
9 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
10 released through this Agreement.

11 **Section 4.03: Nullification**

12 The Parties have agreed to the certification of the Class encompassing all claims alleged in
13 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason
14 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this
15 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order
16 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the
17 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this
18 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
19 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had
20 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
21 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
22 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
23 should be certified by the Court in a non-settlement context in this Action or any other action, and in
24 any of those events, Defendant expressly reserves the right to oppose certification of the Class.

25 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
26 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

1 **ARTICLE V**

2 **RELEASES**

3 **Section 5.01: Released Claims by Class Members**

4 Upon the date Defendant transfers the Gross Settlement Amount, Named Plaintiffs and
5 Participating Class Members who do not opt out of the Settlement, release the Released Parties from
6 any and all claims alleged in Named Plaintiffs' Operative Complaint, during the Class Period,
7 including but not limited to (1) failure to pay minimum wages (2) failure to pay overtime wages (3)
8 failure to provide meal periods (4) failure to permit rest breaks (5) failure to reimburse business
9 expenses (6) failure to provide accurate itemized wage statements (7) failure to pay all wages due
10 upon separation of employment; and (8) violation of business and professions code §§ 17200, et seq.

11 **Section 5.02: Released Claims by PAGA Group Members**

12 Upon the date of funding the GSA, the State of California and PAGA Group Members release
13 the Released Parties from all claims exhausted in Plaintiffs' notice(s) sent to the LWDA and alleged
14 in the operative complaint, which arose during the PAGA Period, regardless of whether PAGA Group
15 Members opt out of the Class Settlement.

16 **Section 5.03: Named Plaintiffs' Release of Unknown Claims**

17 Upon the date of funding the GSA, Named Plaintiffs, waive, release, acquit, and forever
18 discharge the Released Parties from any and all claims, actions, charges, complaints, grievances, and
19 causes of action, of any nature arising from Named Plaintiffs' employment with Defendant, whether
20 known or unknown, which exist or may exist as of the Parties' execution of this Agreement.

21 Section 1542 of the California Civil Code provides as follows:

22 *"A general release does not extend to claims that the creditor or releasing*
23 *party does not know or suspect to exist in his or her favor at the time of*
24 *executing the release and that, if known by him or her, would have*
25 *materially affected his or her settlement with the debtor or released party."*

26 Named Plaintiffs' general release provided herein is made with an express waiver and
27 relinquishment of any claim, right, or benefit under California Civil Code § 1542.

1 **ARTICLE VI**

2 **MISCELLANEOUS PROVISIONS**

3 **Section 6.01: Amendments or Modification**

4 The terms and provisions of this Agreement may be amended or modified only by an express
5 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

6 **Section 6.02: Assignment**

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

12 **Section 6.03: Governing Law**

13 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
14 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
15 of laws.

16 **Section 6.04: Entire Agreement**

17 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
18 contains the entire understanding of the Parties with respect to the subject matter contained herein.
19 In case of any conflict between text contained in Articles I through VI of this Agreement and text
20 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
21 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
22 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
23 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
24 supersedes all prior agreements and understandings among the Parties with respect to the settlement
25 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
26 prior agreements or proposals.

1 **Section 6.05: Waiver of Compliance**

2 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
3 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
4 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
5 counsel 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 **Section 6.06: Counterparts and Fax/PDF Signatures**

9 This Agreement, and any amendments hereto, may be executed in any number of counterparts
10 and any Party and/or their respective counsel may execute any such counterpart, each of which when
11 executed and delivered shall be deemed to be an original. All counterparts taken together shall
12 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
13 signature.

14 **Section 6.07: Meet and Confer Regarding Disputes**

15 Should any dispute arise among the Parties or their respective counsel regarding the
16 implementation or interpretation of this Agreement, a representative of Class Counsel and a
17 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
18 to submitting such disputes to the Court.

19 **Section 6.08: Agreement Binding on Successors**

20 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
21 of each of the Parties.

22 **Section 6.09: Cooperation in Drafting**

23 The Parties have cooperated in the negotiation and preparation of this Agreement. This
24 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
25 was the drafter or participated in the drafting of this Agreement.

26 **Section 6.10: Fair and Reasonable Settlement**

27 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
28 the Action and have arrived at this Agreement through arm's-length negotiation and in the context

1 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
2 further believe that the Settlement is and is consistent with public policy, and fully complies with
3 applicable law.

4 **Section 6.11: Headings**

5 The descriptive heading of any section or paragraph of this Agreement is inserted for
6 convenience of reference only and does not constitute a part of this Agreement and shall not be
7 considered in interpreting this Agreement.

8 **Section 6.12: Notice**

9 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
10 communications under this Agreement must be in writing and addressed as follows:

11 *To Named Plaintiffs and the Class:*

12 Kashif Haque
13 Samuel A. Wong
14 Jessica L. Campbell
15 Kristy R. Connolly
16 AEGIS LAW FIRM, PC
17 9811 Irvine Center Drive, Suite 100
18 Irvine, California 92618
19 Telephone: (949) 379-6250
20 Facsimile: (949) 379-6251

21 And

22 *To Defendant:*

23 Sean D. Cowdrey
24 COWDREY JENKINS, LLP
25 400 West Ventura Boulevard, Suite 230
26 Camarillo, CA 93010
27 Telephone: (805) 472-6050

28 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

To the extent consistent with class action procedure, this Agreement shall be enforceable by
the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the

1 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
2 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
3 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
4 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
5 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
6 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
7 fees incurred in connection with any enforcement actions.

8 **Section 6.14: Mutual Full Cooperation**

9 The Parties agree fully to cooperate with each other to accomplish the terms of this
10 Agreement, including but not limited to the execution of such documents, and the taking of such
11 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
12 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its
13 terms. In the event the Parties are unable to reach agreement on the form or content of any document
14 needed to implement the Settlement, or on any supplemental provisions that may become necessary
15 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

16 **Section 6.15: Authorization to Act**

17 Class Counsel warrants and represents that they are authorized by Named Plaintiffs, and
18 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
19 required to effectuate the terms of this Agreement, except for signing documents, including but not
20 limited to this Agreement, that are required to be signed by the Parties themselves. Defendant
21 represents and warrants that the individual executing this Agreement on its behalf has the full right,
22 power, and authority to enter into this Agreement and to carry out the transactions contemplated
23 herein.

24 **Section 6.16: No Reliance on Representations**

25 The Parties have made such investigation of the facts and the law pertaining to the matters
26 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
27 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
28 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted

rights, or with regard to the advisability of entering into and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

EXECUTION BY PARTIES AND COUNSEL

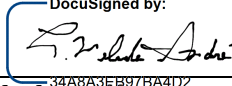
The Parties and their counsel hereby execute this Agreement.

Dated: _____ Evangeline Urcia

By: _____
Named Plaintiff

Dated: 5/12/2022

Lita Melinda Andre

By:  _____
Named Plaintiff

Dated: _____ CARECHOICES HOSPICE AND
PALLIATIVE SERVICES, INC.

By: _____
(Signature)

(Printed Name)

(Title)

APPROVED AS TO FORM ONLY:

Dated: _____

AEGIS LAW FIRM, PC

By: _____
Samuel Wong
Jessica L. Campbell
Kristy Connolly

Attorneys for Named Plaintiffs Evangeline Urcia
and Lita Melinda Andre

rights, or with regard to the advisability of entering into and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

EXECUTION BY PARTIES AND COUNSEL

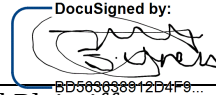
The Parties and their counsel hereby execute this Agreement.

Dated: 5/12/2022

Evangeline Urcia

By:

Named Plaintiff

DocuSigned by:

 BD563636912D4F9...

Dated: _____

Lita Melinda Andre

By: _____

Named Plaintiff

Dated: _____

CARECHOICES HOSPICE AND
 PALLIATIVE SERVICES, INC.

By: _____

(Signature)

(Printed Name)

(Title)

APPROVED AS TO FORM ONLY:

Dated: _____

AEGIS LAW FIRM, PC

By: _____

Samuel Wong
 Jessica L. Campbell
 Kristy Connolly

Attorneys for Named Plaintiffs Evangeline Urcia
 and Lita Melinda Andre

rights, or with regard to the advisability of entering into and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____ Evangeline Urcia

By: _____
Named Plaintiff

Dated: _____ Lita Melinda Andre

By: _____
Named Plaintiff

Dated: 5.12.22 CARECHOICES HOSPICE AND
PALLIATIVE SERVICES, INC.

By: Kim Heximer
(Signature)
Kim Heximer
(Printed Name)
Vice President Operations
(Title)

APPROVED AS TO FORM ONLY:

Dated: 5/12/2022

AEGIS LAW FIRM, PC

By: 
Samuel Wong
Jessica L. Campbell
Kristy Connolly

Attorneys for Named Plaintiffs Evangeline Urcia
and Lita Melinda Andre

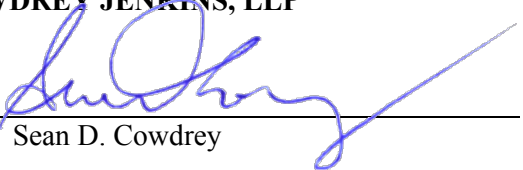
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated:

5/12/2022

COWDREY JENKINS, LLP

By:


Sean D. Cowdrey

Attorneys for Defendant CareChoices Hospice
and Palliative Services, Inc.