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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

JENNIFER WARD, individually and on
behalf of all other similarly-aggrieved
employees,

Plaintiff,

vs.

SUTTER VALLEY HOSPITALS, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 34-2020-00279954

**AMENDED JOINT STIPULATION OF
CLASS ACTION AND PAGA
SETTLEMENT AND RELEASE**

Judge: Hon. Lauri A. Damrell
Dept.: 22
Complaint Filed: June 4, 2020

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14 of themselves and all others similarly situated and/or similarly aggrieved and
as proxies for the State of California

1. This Amended Joint Stipulation of Class Action and PAGA Settlement and Release (“**Agreement**” or “**Stipulation**”) is made by and between, on the one hand, Plaintiffs Jennifer Ward and Sacora Besabe (“**Plaintiffs**”), on behalf of themselves and all others similarly-situated, including all members of the Settlement Class as defined below, and (as to Plaintiff Ward only) on behalf of all similarly-aggrieved employees and members of the general public, as proxy for the State of California, and, on the other hand, Defendant Sutter Valley Hospitals (“**Defendant**”), (collectively, “**the Parties**”), in the above-captioned matter.

DEFINITIONS

2. In addition to the terms defined above, the terms below shall have the following meanings:

A. **“Actions”** means Plaintiffs’ lawsuits or unfiled complaints captioned (1) *Jennifer Ward and Sacora Besabe, on behalf of themselves and all others similarly situated v. Sutter Valley Hospitals*, E. Dist. of Cal. No. 2:19-CV00581-KJM-AC, originally filed on February 13, 2019; (2) *Jennifer Ward, individually and on behalf of all other similarly-aggrieved employees v. Sutter Valley Hospitals*, Sacramento County Superior Court No. 34-2020-00279954, originally filed on June 4, 2020, and amended on July 12, 2024 to incorporate the federal and California claims set forth in the above-referenced Eastern District action; and (3) a draft complaint entitled *Cecelia Guillen et al v. Sutter Valley Hospitals*, dated June 7, 2023, but as yet unfiled in Sacramento County Superior Court.

B. **“Class” or “Settlement Class”** means all current and former non-exempt employees employed by Defendant in California as surgical technicians, anesthesia technicians, and in similar positions performing similar work duties at any time from February 13, 2015 through February 1, 2024, including those employees of Defendant who, by virtue of their employment in these positions, were excluded from the settlement class in *Sandra Muniz v. Sutter Valley Hospitals*, Sacramento County Superior Court No. 34-2017-00209151-CU-OE-ODS.

C. **“Class Counsel”** means David R. Markham and Lisa R. Brevard of The Markham Law Firm; Isam C. Khoury, Michael D. Singer and Maggie K. Realin of Cohelan Khoury & Singer; and Richard E. Quintilone of Quintilone & Associates. The term “Class Counsel” shall

1 be used synonymously herein with the term “Plaintiffs’ Counsel.”

2 D. **“Class Counsel Fees” and “Class Counsel Costs”** means the amounts to be paid
3 to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate
4 Class Counsel for their legal work in connection with the Actions and their related litigation
5 expenses incurred in connection with the Actions.

6 E. **“Class Data”** means information regarding Class Members that Defendant shall
7 compile from its records, as authorized by the Court, and transmit securely to the Settlement
8 Administrator, including each Class Member’s name, last known mailing address, Social Security
9 number, last known telephone number, dates of employment in class positions during the Class
10 Period, and other information necessary for the Settlement Administrator to calculate the number
11 of Compensable Workweeks worked during the Class and PAGA Periods.

12 F. **“Class Member” or “Settlement Class Member”** means a member of the Class,
13 as either a Participating Class Member or Non-Participating Class Member (including a Non-
14 Participating Class Member who qualifies as a PAGA-Eligible Employee).

15 G. **“Class Members’ Released Claims”** means the claims being released by the
16 Participating Class Members, as described in Paragraph 24 below.

17 H. **“Class Notice”** means the Court-Approved Notice of Pendency of Class Action
18 Settlement and Final Hearing, to be mailed to Class Members in the form, without material
19 variation, attached as Exhibit A and incorporated by reference into this Agreement.

20 I. **“Class Period”** means the period from February 13, 2015 through May 1, 2024.

21 J. **“Class Period End Date”** means May 1, 2024.

22 K. **“Class Representatives”** means Jennifer Ward and Sacora Besabe, the named
23 Plaintiffs in the federal court Action, who are seeking Court approval to serve as the Class
24 Representatives for settlement purposes.

25 L. **“Class Representatives’ Service Award”** means the amounts to be paid to the
26 Class Representatives for initiating the Actions and providing services in support of the Actions,
27 as approved by the Court.

28 M. **“Compensable Workweeks”** means the number of calendar weeks that a Class

1 Member was employed by Defendant as a non-exempt surgical technician, anesthesia technician,
2 or in a similar position performing similar work duties at any time in California during the Class
3 Period, including the PAGA Period.

4 N. **“Court”** means, unless stated otherwise, the Sacramento County Superior Court
5 presiding over the settlement approval process.

6 O. **“Defense Counsel”** means Thomas E. Geidt, Teresa W. Ghali and Rachel E.
7 Davey of GBG LLP.

8 P. **“Effective Date”** is the date on which the Settlement becomes **“Final,”** which
9 means the latest date on which the following events have occurred: (i) the Superior Court has
10 granted Final Approval and entered its Final Judgment approving the Settlement, without material
11 modification, if there are no objections to the Settlement, or if any and all objections have been
12 withdrawn by the time of the Final Approval order; or (ii) if there are any objections, and they
13 have not been withdrawn by the time of the Final Approval order, the day after the deadline for
14 filing a notice of appeal from the Final Judgment has passed without a timely appeal having been
15 filed; or (iii) if a timely appeal from the Final Judgment is filed, the day after the appellate court
16 affirms the Judgment and issues a remittitur.

17 Q. **“Final Approval”** means the Court’s order granting final approval of the
18 Settlement.

19 R. **“Final Approval Hearing”** means the Court’s hearing on the motion for Final
20 Approval of the Settlement.

21 S. **“Final Judgment”** means the Judgment entered by the Court upon granting Final
22 Approval of the Settlement.

23 T. **“Individual Class Payment”** means the Participating Class Member’s pro rata
24 share of the Net Settlement Amount calculated according to the number of Compensable
25 Workweeks worked during the Class Period, as explained below in Paragraph 20.

26 U. **“Individual PAGA Payment”** means the pro rata share of 25% of the PAGA
27 Payment, calculated according to the number of Compensable workweeks worked during the
28 PAGA Period by the eligible Class Members, whether or not they requested to be excluded from

1 the Settlement, as explained below in Paragraph 21.

2 V. **“LWDA”** means the California Labor and Workforce Development Agency.

3 W. **“LWDA PAGA Payment”** means the 75% share of the PAGA Payment paid to
4 the LWDA under Labor Code section 2699(i).

5 X. **“Maximum Settlement Amount”** means Seven Hundred and Seventy Five
6 Thousand Dollars and No Cents (\$775,000.00), which is the total amount Defendant shall have to
7 pay under the Settlement, except as provided in Paragraph 23 below, regarding employer payroll
8 taxes on the wage payments being made under the Settlement, and potentially as provided in
9 Paragraph 43 below regarding an increase in the workweek amount. The Maximum Settlement
10 Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA
11 PAGA Payment, the Class Counsel Award for fees and costs, the Class Representatives’ Service
12 Awards, and the Settlement Administration Costs. This excludes the employer’s contribution of
13 payroll taxes due on the settlement payments apportioned as wages, which Defendant will pay
14 outside of the Maximum Settlement Amount.

15 Y. **“Net Settlement Amount”** means the Maximum Settlement Amount, less the
16 amounts awarded for Class Counsel Fees, Class Counsel Costs, the Class Representatives’
17 Service Award, the PAGA Payment, and the Settlement Administration Costs.

18 Z. **“Non-Participating Class Member”** means any Class Member who opts out of
19 the Settlement by sending the Settlement Administrator a valid and timely Request for Exclusion.

20 AA. **“Objection”** means a Class Member’s valid and timely submission of a written
21 objection to the Settlement to the Settlement Administrator within the Response Deadline,
22 provided that the Class Member did not submit a Request for Exclusion.

23 BB. **“PAGA”** means the California Private Attorneys General Act of 2004, Labor
24 Code §§ 2698. *et seq.*

25 CC. **“PAGA-Eligible Employees”** means current and former non-exempt employees
26 who were employed by Defendant in Class positions from March 3, 2019 through February 1,
27 2024.

28 DD. **“PAGA Payment”** means the total amount of Seventy-Seven Thousand and Five

1 Hundred Dollars (\$77,500.00), in full settlement of Plaintiffs' claims in the Actions for civil
2 penalties under PAGA, subject to the Court's approval, to be paid from the Maximum Settlement
3 Amount. Of this amount, 75% (\$58,125.00) will be paid to the LWDA and 25% (\$19,375.00)
4 will be paid to the PAGA-Eligible Employees, whether or not they opt out of the Class
5 Settlement.

6 EE. **"PAGA Period"** means the period from March 3, 2019 through May 1, 2024.

7 FF. **"PAGA-Released Claims"** means the PAGA claims being released as described
8 in Paragraph 26 below.

9 GG. **"Participating Class Member"** means a Class Member who does not submit a
10 valid and timely Request for Exclusion from the Settlement.

11 HH. **"Preliminary Approval Order"** means the Court's Order granting preliminary
12 approval of the Settlement.

13 II. **"Released Parties"** means Defendant and all of its former and present parents,
14 corporate members, subsidiaries, divisions, and affiliated companies, and their respective officers,
15 directors, employees, partners, shareholders, agents, insurers, successors, assigns, and legal
16 representatives.

17 JJ. **"Request for Exclusion"** means a Class Member's valid and timely submission of
18 a written request to the Settlement Administrator to be excluded from the Class Settlement,
19 signed by the Class Member.

20 KK. **"Response Deadline"** means 60 days after the Settlement Administrator mails the
21 Class Notice to the Class Members, and shall be the last date on which Class Members may mail
22 or fax (1) Requests for Exclusion from the Settlement, (2) an Objection to the Settlement, or (3) a
23 dispute over the number of Compensable Workweeks attributed to them in the Class Notice,
24 unless the Response Deadline is extended by up to fifteen (15) calendar days as the result of a re-
25 mailing of the Class Notice, as explained below in Paragraph 36.

26 LL. **"Settlement Administrator"** or **"Administrator"** means Phoenix Settlement
27 Administrators, the neutral entity that the Parties have agreed to appoint to administer the
28 Settlement, subject to approval by the Court.

1 MM. “**Settlement Administration Costs**” means the Court-approved fees and
2 reasonable costs incurred by the Settlement Administrator to administer the Settlement, currently
3 estimated at \$9,000, to be reimbursed to the Settlement Administrator from the Maximum
4 Settlement Amount.

5 **RECITALS**

6 3. **The Federal Action.** On February 13, 2019, Plaintiff Jennifer Ward filed her
7 initial complaint in the matter now pending in the Eastern District of California as *Jennifer Ward*
8 *and Sacora Besabe vs. Sutter Valley Hospitals*, asserting individual, class, and collective wage
9 and hour claims under California law and the Fair Labor Standards Act (“FLSA”) on behalf of
10 current and former employees employed by Defendant as surgical technicians or in similar
11 technician positions. Plaintiffs’ operative complaint alleges federal claims for failure to pay
12 overtime and minimum wages under the FLSA and California claims for (1) failure to pay
13 overtime and minimum wages; (2) failure to provide meal periods; (3) failure to provide rest
14 periods; (4) failure to provide itemized wage statements; (5) failure to pay wages twice monthly;
15 (6) failure to reimburse business expenses; (7) failure to pay termination pay; and (8)) unlawful
16 business practices the Unfair Competition Law (“UCL”). The Court in that matter (“**the Federal**
17 **Action**”) denied Plaintiffs’ motions for class and collective certification and Plaintiffs’ complaint,
18 therefore, is now proceeding solely on behalf of Plaintiffs Ward and Besabe as individuals. To
19 facilitate the Court’s approval of this Agreement, the Parties stipulated and requested that the
20 Federal Action be remanded to the Sacramento County Superior Court and, on July 3, 2024,
21 Judge Kimberly Mueller of the Eastern District ordered the Federal Action remanded to
22 Sacramento County Superior Court and the Federal Action closed.

23 4. **The PAGA Action.** On June 4, 2020, Plaintiff Jennifer Ward filed a
24 representative action in Sacramento County Superior Court solely under PAGA, Case No. 34-
25 2020-00279954, seeking civil penalties for essentially the same underlying California wage and
26 hour claims as those asserted in the Federal Action (“**the PAGA Action**”) on behalf of the
27 surgical technicians and others she has sought to represent in the Federal Action. On July 12,
28 2024, Plaintiffs Jennifer Ward and Sacora Besabe filed a First Amended Class and Representative

1 Action Complaint in the Sacramento County Superior Court, incorporating the facts and claims
2 pleaded in the remanded Federal Action.

3 5. **The Guillen Claims.** On or around June 7, 2023, Plaintiffs' counsel presented
4 Defense Counsel with an unfiled draft complaint captioned in Sacramento County Superior Court,
5 asserting essentially the same California claims as those alleged in the Federal Action on behalf
6 of 66 named individuals ("**the Guillen Plaintiffs**") who had sought to be included as class
7 members in the Federal Action.

8 6. **Mediation and Amended Long-Form Settlement Agreement.** On February 1,
9 2024, the Parties participated in a full-day, arms-length mediation before Michael Dickstein of all
10 three Actions. With the assistance of the mediator, the Parties were able to come to a settlement
11 of the claims in the Actions, subject to the Court's approval. The settlement was memorialized in
12 a Memorandum of Understanding, subject to later completion of this long-form Settlement
13 Agreement. The Parties filed Notices of Settlement with the Sacramento Superior and Eastern
14 District Courts in the Actions, with the intent that further active litigation in both actions would
15 be stayed and suspended pending the approval of this Settlement. Plaintiffs submitted an initial
16 long-form settlement agreement to the Court for approval on May 28, 2024. On June 21, 2024,
17 the Court issued an order directing the Parties to meet and confer on various issues related to this
18 initial version of the agreement. Pursuant to the Court's order, the Parties subsequently met and
19 conferred and reached agreement on the revisions reflected in this Amended Agreement and
20 accompanying Class Notice.

21 7. **Benefits of Settlement to Plaintiffs and the Class Members.** Plaintiffs and
22 Class Counsel recognize the expense and length of continued proceedings necessary to litigate
23 Plaintiffs' disputes in these Actions through trial and through any possible appeals. Plaintiffs
24 have also taken into account the uncertainty and risks of the outcome of further litigation, and the
25 difficulties and delays inherent in such litigation, particularly given the prior denials of class
26 certification in the Federal Action. Plaintiffs and Class Counsel also are aware of the burdens of
27 proof necessary to establish liability for the claims asserted in the Lawsuits, both generally and in
28 response to Defendant's defenses thereto, and the difficulties in establishing damages, penalties,

1 restitution and other relief sought in the Actions. Plaintiffs and Class Counsel also have taken
2 into account Defendant's agreement to enter into a settlement that confers substantial benefits
3 upon the Class Members. Based on the foregoing, Plaintiffs and Class Counsel have determined
4 that the Settlement set forth in this Agreement is fair, adequate, and reasonable and is in the best
5 interests of all Class Members.

6 8. **Defendant's Reasons for Settlement.** Defendant has concluded that further
7 defense of the Actions would be protracted and expensive. Substantial amounts of Defendant's
8 time, energy, and resources have been, and unless this Settlement is completed, shall continue to
9 be, devoted to the defense of the claims asserted by Plaintiffs. Defendant also has taken into
10 account the risks of further litigation in reaching its decision to enter into this Settlement. Even
11 though Defendant contends that it is not liable for any of the claims alleged by Plaintiffs in the
12 Actions and denies any liability whatsoever, Defendant, nonetheless, has agreed to settle in the
13 manner and upon the terms set forth in this Stipulation and to fully and finally put to rest the
14 claims alleged in the Actions.

15 **CLASS CERTIFICATION**

16 9. The Parties agree that the claims pled in the three Actions are closely interrelated
17 and overlapping, and that it makes sense therefore to enter into a global settlement of the claims
18 contained in all three Actions.

19 10. Having filed their First Amended Complaint in what was originally the Ward
20 PAGA Action, Plaintiffs will promptly resubmit this Amended Agreement for preliminary
21 approval by the Court. Defense counsel will cooperate with Plaintiffs' counsel in addressing the
22 Court's prior concerns about this Agreement and supporting the Court's approval of this
23 Amended Agreement.

24 11. Likewise, in consideration of this Class Settlement and the Class Members'
25 Releases herein, Plaintiffs and their counsel will refrain from ever filing their draft *Guillen*
26 Complaint on behalf of the 66 named plaintiffs therein, or any other complaint alleging any of the
27 Labor Code and Business & Professions Code claims that are covered by the releases set forth
28 herein.

1 12. **Stipulated Settlement Class.** Solely for purposes of settling the Actions, the
2 Parties have agreed to the certification of a Settlement Class as defined herein.

3 13. **Certification Is for Settlement Only.** For purposes of this Settlement, the Parties
4 stipulate and agree that the requisites for establishing class certification with respect to the Class
5 have been met and are met. More specifically, for purposes of settlement only, the Parties
6 stipulate and agree that the Settlement Class is ascertainable and so numerous as to make it
7 impracticable to join all Class Members; and that there are common questions of law and fact
8 including, but not limited to, whether Defendant failed to provide meal periods and/or to pay meal
9 premiums in lieu thereof at the regular rate of compensation as required under Labor Code section
10 226.7, whether defendant failed to authorize and permit rest breaks and/or to pay rest break
11 premiums in lieu thereof at the regular rate of compensation as required under Labor Code section
12 226.7; whether Defendant failed to accurately pay overtime, minimum, or regular wages, by
13 failing to pay for off the clock work or failing to pay overtime at the correct regular rate of pay;
14 whether Defendant failed to reimburse employees for business expenses under Labor Code
15 section 2802; whether Defendant failed to furnish accurate, itemized wage statements to all Class
16 Members in accordance with Labor Code section 226; and whether Defendant is liable to the
17 Class Members for derivative waiting time penalties pursuant to Labor Code section 203, among
18 other common issues.

19 14. **Certification Stipulation Nullified if Settlement Not Approved.** Should this
20 Settlement not become final for whatever reason, the Parties shall return to the status quo ante,
21 and the draft amended complaint alleging the class claims previously asserted (and rejected) in
22 the Federal Action will not be filed in any court. Further, the fact that the Parties were willing to
23 stipulate provisionally to class certification as part of the Settlement shall have no bearing on, and
24 shall not be admissible in connection with, the issue of whether a class should be certified in a
25 non-settlement context in the Actions. Should this Settlement not become final, no class claims
26 shall be pled, and Defendant expressly reserves its right to oppose class certification, as it has
27 successfully done previously in this matter.

28 **MONETARY TERMS OF THE SETTLEMENT**

1 15. **Maximum Settlement Amount.** The claims of all members of the Settlement
2 Class and the PAGA-Eligible Employees, collectively, are settled for a maximum sum of Seven
3 Hundred and Seventy-Five Thousand Dollars and No Cents (\$775,000.00) (“the Maximum
4 Settlement Amount”). This Maximum Settlement Amount is inclusive of the Class Counsel Fees
5 and Class Counsel Costs; the Class Representatives’ Service Award to Plaintiffs Jennifer Ward
6 and Sacora Besabe; the Settlement Administration Costs; and the PAGA Payments to the LWDA
7 and the PAGA-Eligible Employees, all as approved by the Court. This excludes the employer’s
8 contribution of payroll taxes due on the settlement payments apportioned as wages, which
9 Defendant will pay outside of (in addition to) the Maximum Settlement Amount.

10 16. **Class Counsel Fees and Class Counsel Costs.** Class Counsel shall be entitled to
11 request attorneys’ fees in an amount not to exceed one-third (33.33%) of the Maximum
12 Settlement Amount – that is, not to exceed Two Hundred Fifty Eight Thousand Three Hundred
13 Thirty-Three Dollars and Thirty-Three Cents (\$258,333.33), plus reasonable costs not to exceed
14 Fifty Five Thousand Dollars (\$55,000.00). Class Counsel’s request for such attorneys’ fees and
15 costs shall be subject to approval by the Court. In the event the Court awards Class Counsel less
16 than these (or any other) requested amounts, the difference shall become part of the Net
17 Settlement Amount and shall be distributed to Participating Class Members as part of their
18 Individual Settlement Awards. Class Counsel shall be solely and legally responsible to pay all
19 applicable taxes due on the Class Counsel Award. Class Counsel shall provide the Settlement
20 Administrator with properly completed and signed copies of their IRS Form W-9(s) in order for
21 the Settlement Administrator to process the Class Counsel Award approved by the Court. The
22 Settlement Administrator shall issue an IRS Form 1099 to Class Counsel for the amount of the
23 Class Counsel Award.

24 17. **Class Representatives’ Service Awards.** For purposes of this Settlement only,
25 the Parties agree to the designation of Plaintiffs Jennifer Ward and Sacora Besabe as the Class
26 Representatives. In recognition of their time and effort in bringing and presenting the Actions
27 and for releasing the Plaintiffs’ Released Claims, Plaintiffs shall request a Class Representatives’
28 Service Award not to exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) per Plaintiff.

1 Plaintiffs' request for such award shall be subject to approval by the Court. Defendant agrees not
2 to oppose or object to Plaintiffs' request for a Class Representatives' Service Award that does not
3 exceed this amount. The Class Representatives' Service Award will be in addition to Plaintiffs'
4 Individual Class Payments paid pursuant to the Settlement and/or any PAGA Payment paid to
5 them pursuant to the Settlement. The Settlement Administrator shall issue an IRS Form 1099 to
6 Plaintiffs for their Class Representatives' Service Awards. Plaintiffs shall be solely and legally
7 responsible to pay any and all applicable taxes due on their Class Representatives' Service
8 Awards. Any amount requested by Plaintiffs for the Class Representatives' Service Awards and
9 not awarded by the Court shall become part of the Net Settlement Amount and shall be
10 distributed to Participating Class Members as part of their Individual Settlement Awards.

11 18. **Settlement Administration Costs.** Subject to the Court's approval, Defendant
12 shall reimburse the Settlement Administration Costs, which are currently estimated to not exceed
13 Nine Thousand Dollars (\$9,000.00), to be paid from the Maximum Settlement Amount. Prior to
14 the filing of Plaintiffs' Motion for Final Approval of the Settlement, the Settlement Administrator
15 shall provide the Parties with a statement detailing the Settlement Administration Costs to date.

16 19. **PAGA Payments.** Defendant shall pay the total sum of Seventy-Seven Thousand
17 and Five Hundred Dollars (\$77,500.00) to resolve the claims asserted by Plaintiff Ward, as proxy
18 for the State of California and by the State of California itself (including the LWDA), for civil
19 penalties under PAGA. Seventy-five percent (75%) of this amount (\$58,125.00) will be paid to
20 the LWDA. The remaining twenty-five percent (25%) (\$19,375.00) will be distributed to the
21 PAGA-Eligible Employees, based on their proportionate share of Compensable Pay Periods
22 worked during the PAGA Period. These PAGA Payments will be paid out of the Maximum
23 Settlement Amount.

24 20. **Individual Class Payments.** The Settlement Administrator will determine the
25 Net Settlement Amount by deducting the Class Counsel Fees and Costs, the Class
26 Representatives' Service Award, the PAGA Payment, and the Settlement Administration Costs
27 from the Maximum Settlement Amount. The Settlement Administrator will distribute the
28 Individual Class Payments to the Participating Class Members from the Net Settlement Amount.

1 The Administrator will calculate each Participating Class Member's Individual Class Payment by
2 determining the total number of Compensable Workweeks worked by all Participating Class
3 Members during the Class Period, dividing that number into the Net Settlement Amount to
4 determine the per-workweek value of each Compensable Workweek, and then multiplying that
5 sum by the number of Compensable Workweeks worked by each Participating Class Member
6 during the Class Period.

7 **21. Individual PAGA Payments.** The Settlement Administrator will calculate each
8 eligible employee's Individual PAGA Payment by dividing the 25% portion of the PAGA
9 Payment to be distributed to those individuals, i.e. Nineteen Thousand Three Hundred and
10 Seventy Five Dollars and Zero Cents (\$19,375.00), by the total number of Compensable
11 Workweeks worked by all of the PAGA-Eligible Employees during the PAGA Period to derive
12 the per-workweek value of the Individual PAGA Payments, and then multiplying that sum by the
13 number of Compensable Workweeks worked by each such employee during the PAGA Period.

14 **22. Tax Treatment of Individual Class and PAGA Payments.** Individual
15 Settlement Awards shall be allocated as follows: 20% as alleged unpaid wages subject to all
16 applicable tax withholdings and 80% as alleged unpaid interest and penalties. The Settlement
17 Administrator shall issue an IRS Form W-2 to each Participating Class Member for the portion of
18 each Individual Settlement Award allocated as unpaid wages. These payments shall be subject to
19 all applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to
20 each Participating Class Member for the remaining portion of each Individual Settlement Award.
21 The Settlement Administrator shall also issue an IRS Form 1099 for the Individual PAGA
22 Payments. The non-wage portions of the Individual Settlement Awards and the entirety of the
23 Individual PAGA Payments will be allocated as non-wage penalties and interest and shall not be
24 subject to payroll tax withholdings.

25 **23. Employer Payroll Taxes.** The Maximum Settlement Amount shall resolve,
26 satisfy and completely extinguish all of Defendant's liability with respect to the Class Members,
27 except that Defendant shall be responsible for paying the employer's share of payroll taxes on the
28 portion of the Individual Settlement Awards that constitute wages. Defendant will pay these

1 taxes, as calculated by the Settlement Administrator, in addition to the Maximum Settlement
2 Amount. Upon Defendant's funding of the Maximum Settlement Amount and the employer
3 portion of payroll taxes on the portion of the Individual Settlement Awards that constitutes wages,
4 Defendant shall have no further payment or defense obligation whatsoever with respect to any
5 claims covered by this Settlement made or asserted by any person or entity anywhere in the world
6 in connection with the Class Members.

7 **RELEASES**

8 **24. Class Members' Released Claims.** Effective on the date when Defendant fully
9 funds the Maximum Settlement Amount and its share of employer payroll taxes owed on the
10 wage portion of the Settlement Payments, Plaintiffs and all Participating Class Members will
11 fully, finally and forever release, settle, compromise, relinquish, and discharge Defendant and all
12 of the Released Parties from any and all claims, rights, demands, liabilities, and causes of action
13 of every nature and description, arising during the Class Period, including statutory, contractual,
14 or common law claims for wages, damages, penalties, liquidated damages, interest, attorneys'
15 fees, litigation costs, restitution, or equitable relief – whether asserted under the California Labor
16 Code, Business and Professions Code §§ 17200 *et seq.*, the applicable wage orders at California
17 Code of Regulations, Title 8, Section 11000 *et seq.*, or otherwise – that were or could have been
18 alleged based on the factual allegations in Plaintiffs' operative Complaints herein, including but
19 not limited to: (a) any and all claims for failure to provide meal periods and/or to pay meal
20 premiums in lieu thereof at the correct regular rate of compensation as required under Labor Code
21 section 226.7; (b) any and all claims for failure to authorize and permit rest breaks and/or to pay
22 rest break premiums in lieu thereof at the correct regular rate of compensation as required under
23 Labor Code section 226.7; (c) any and all claims for unpaid or untimely payment of overtime,
24 minimum wages or regular wages, including but not limited to claims alleging failure to pay for
25 "off the clock" work and/or failure to pay overtime at the correct regular rate of pay; (d) any and
26 all claims for failure to reimburse employees for business expenses under Labor Code section
27 2802, including but not limited to cell phone, data plan, and surgical shoe expenses; (e) any and
28 all derivative claims arising from the claims listed above in subparagraphs (a) through (d) for

1 failure to furnish accurate itemized wage statements in accordance with Labor Code section 226,
2 and including any associated claims for penalties under Labor Code section 226(e) and/or any
3 claims for failure to maintain complete and accurate payroll records; (f) any and all derivative
4 claims arising from the claims listed above in subparagraphs (a) through (d) for failure to provide
5 wages when due upon separation of employment under Labor Code sections 201-203; and (g) any
6 and all claims for attorneys' fees and costs.

7 **25. FLSA Release.** Inasmuch as Plaintiffs' Federal Action, since its inception in
8 February 2019, has asserted minimum wage and overtime claims under the FLSA, and those
9 claims overlap with Plaintiffs' California minimum wage and overtime claims, the Parties intend
10 that this Settlement shall release the Participating Class Members' FLSA claims arising out of the
11 factual allegations in the Actions, to the fullest extent permitted by law upon the Court's approval
12 of the Settlement and upon the Participating Class Members' cashing of their Individual Class
13 Payments. Accordingly, Participating Class Members who timely cash or otherwise negotiate
14 their Settlement checks will be deemed to have opted into the Actions for purposes of the FLSA,
15 and their Released Claims shall include any and all claims they may have for unpaid overtime or
16 minimum wages under the FLSA arising during the Class Period. The following language will be
17 printed on the reverse side of each Settlement check, or words to this effect: "By endorsing or
18 otherwise negotiating this check, I acknowledge that I have read, understand, and agree to the
19 terms set forth in the [Class Notice], and I consent to join in the Fair Labor Standards Act
20 ("FLSA") portion of the Actions, elect to participate in the settlement of the FLSA claims, and
21 agree to release all of my FLSA claims that are covered by the Settlement." For avoidance of
22 doubt, any Class Members who do not cash or negotiate their Individual Settlement Payments
23 will not be deemed to have released their FLSA claims under this Settlement.

24 **26. PAGA-Released Claims.** Effective on the date when Defendant fully funds the
25 Maximum Settlement Amount and its share of employer payroll taxes owed on the wage portion
26 of the Settlement Payments, Plaintiff Jennifer Ward, as an agent and proxy of the State of
27 California (including the LWDA), acting on behalf of the PAGA-Eligible Employees, shall
28 release Defendant and all of the Released Parties from any and all claims for PAGA civil

1 penalties arising during the PAGA Period out of the California Private Attorneys General Act of
2 2004, Labor Code §§ 2698 *et seq.*, based on any of the underlying claims and factual allegations
3 that were alleged, or reasonably could have been alleged in Plaintiffs' operative First Amended
4 Complaint and/or in Plaintiff Ward's notice letter provided to the LWDA dated March 3, 2020,
5 including but not limited to claims for: (a) failure to provide meal periods and/or to pay meal
6 premiums in lieu thereof at the regular rate of compensation; (b) failure to authorize and permit
7 rest breaks and/or to pay rest break premiums in lieu thereof at the regular rate of compensation;
8 (c) unpaid or untimely payment of overtime, minimum wages or regular wages, including but not
9 limited to failure to pay for "off the clock" work and/or failure to pay overtime at the correct
10 regular rate of pay; (d) failure to reimburse employees for business expenses, including but not
11 limited to cell phone, data plan, and surgical shoe expenses; (e) failure to timely pay wages
12 during employment; (f) failure to timely pay wages owed upon separation from employment; (g)
13 failure to furnish accurate itemized wage statements and/or comply with applicable recordkeeping
14 requirements; (h) violation of the UCL; and (i) any and all claims for attorneys' fees and costs.

15 27. **No Right to Opt Out of PAGA Settlement.** It is understood and agreed that
16 PAGA-Eligible Employees will not have the opportunity to opt out of this PAGA Release even if
17 they have requested to be excluded from the Class Settlement. It is the intent of the Parties that,
18 to the fullest extent permitted by law, the PAGA-Eligible Employees will be deemed to have
19 released all such PAGA claims arising during the PAGA Period.

20 28. **Plaintiffs' Additional Release.** In addition to the Class Members' Released
21 Claims and the PAGA-Released Claims, Plaintiffs Ward and Besabe, in their individual
22 capacities, agree to release the Released Parties from any and all claims they may have, known
23 and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law,
24 or other source of law, arising as of the date of execution of this Agreement, including but not
25 limited to claims arising from or related to their employment with Defendant, their terminations
26 (if any), their compensation while in Defendant's employ, and all other dealings they have had
27 with the Released Parties. Plaintiffs expressly waive and relinquish all rights and benefits of
28 section 1542 of the Civil Code of the State of California, and do so understanding and

acknowledging the significance and consequence of specifically waiving their rights under section 1542 not to otherwise release unknown claims. Section 1542 of the Civil Code of the State of California states as follows:

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

Notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiffs expressly acknowledge that this Agreement is intended to include in its effect, without limitation, all claims that Plaintiffs do not know or suspect to exist in their favor at the time of signing this Agreement, and that this Agreement contemplates the extinguishment of any such claims.

MOTION FOR PRELIMINARY APPROVAL

29. **Mutual Duty of Cooperation to Seek Approval.** The Parties agree to work diligently and cooperatively to have this Settlement expeditiously presented to the Court for preliminary approval. Class Counsel shall prepare a draft motion for preliminary approval, including a proposed Preliminary Approval Order, and will circulate the draft to Defense Counsel at least five (5) business days in advance of its filing. Upon filing the motion for preliminary approval, Class Counsel shall also timely submit any required notices of this Agreement to the LWDA as may be required by Labor Code sections 2699(1)(2) and (3) or other provisions of PAGA.

30. **Contents of Preliminary Approval Order.** As part of the motion for preliminary approval, the Parties shall apply to the Court for the entry of an Order as follows:

- a. Certifying the Settlement Class for settlement purposes only;
- b. Approving, as to form and content, the proposed Class Notice (**Exhibit 1** attached hereto);
- c. Approving the manner and method for Class Members to object to or request exclusion from the Settlement, as contained herein and within the Class Notice;

- 1 d. Directing the mailing of the Class Notices to Class Members, by first class
2 mail;
- 3 e. Preliminarily approving the Settlement, subject only to the objections of
4 Class Members and final review by the Court;
- 5 f. Accepting and deeming filed the amended complaint alleging the class
6 claims previously alleged in the Federal Action; and
- 7 g. Setting a date and time for the Final Approval Hearing.

8 31. **Resolution of Court Concerns.** If the Court does not initially grant preliminary
9 approval or conditions preliminary approval on any material change to this Agreement, Class
10 Counsel and Defense Counsel will expeditiously work together, and in good faith, to modify the
11 Agreement and/or otherwise satisfy the Court's concerns.

12 **SETTLEMENT ADMINISTRATION**

13 32. **Selection of Settlement Administrator.** The Parties have jointly selected
14 Phoenix Settlement Administrators ("PSA") to serve as the Settlement Administrator and verified
15 that, as a condition of appointment, PSA agrees to perform, as a fiduciary, all duties specified in
16 this Agreement in exchange for payment of the Settlement Administration Costs. The Parties and
17 their Counsel represent that they have no interest or relationship, financial or otherwise, with the
18 Settlement Administrator other than a professional relationship arising out of prior experiences
19 administering settlements.

20 33. **Qualified Settlement Fund.** The Settlement Administrator shall establish a
21 settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under U.S.
22 Treasury Regulation section 468B-1. The Administrator shall have and use its own Employer
23 Identification Number for purposes of calculating payroll tax withholdings and providing reports
24 to state and federal tax authorities, except as otherwise required or permitted by law.

25 34. **Transmission of Class Data to Administrator.** Within forty-five (45) calendar
26 days after the Court grants preliminary approval of the Settlement, to the extent practicable,
27 Defendant will securely provide the Settlement Administrator with the Class Data, including the
28 names, last known addresses and telephone numbers, and social security numbers of the Class

1 Members. In addition, Defendant will provide the Settlement Administrator with data indicating
2 the number of workweeks worked by each Class Member during the relevant Class Period and
3 PAGA Period, as reflected in Defendant's records, or data that will otherwise enable the
4 Settlement Administrator to compute the number of applicable workweeks. The Settlement
5 Administrator will retain the Class Data and will not share it with Class Counsel except as
6 otherwise permitted herein.

7 **35. Mailing of Class Notices.** Within fourteen (14) calendar days after receiving the
8 Class Data from Defendant, the Settlement Administrator shall mail copies of the Court-approved
9 Class Notice to all Class Members via regular First-Class U.S. Mail. The Settlement
10 Administrator shall exercise its best judgment to determine the current mailing address for each
11 Class Member as informed by the parties' input. The address identified by the Settlement
12 Administrator as the current mailing address shall be presumed to be the most current mailing
13 address for each Class Member. The Settlement Administrator shall perform a search based on
14 the National Change of Address Database maintained by the United States Postal Service to
15 update and correct any known or identifiable address changes. The Parties agree that this
16 procedure for notice provides the best notice practicable to Class Members and fully complies
17 with due process.

18 **36. Undeliverable Class Notices.** Any Settlement Notice returned to the Settlement
19 Administrator as non-deliverable on or before the Response Deadline shall be re-mailed to the
20 forwarding address affixed thereto within five (5) calendar days of receipt of the returned Class
21 Notice by the Settlement Administrator. If no forwarding address is provided, the Administrator
22 shall attempt to determine a correct address by the use of skip-tracing, or other type of automated
23 search, using the name, address and/or Social Security number of the Class Member involved,
24 and shall then perform a re-mailing to the Class Member whose Class Notice was returned as
25 non-deliverable within five (5) calendar days of receipt of the returned Notice by the
26 Administrator, assuming another mailing address is identified by the Administrator. The
27 deadlines for Class Members to submit written Objections, Requests or Exclusion, or challenges
28 to Compensable Workweeks will be extended an additional fifteen (15) calendar days from the

1 date of the re-mailing, even if this results in an extension of the otherwise-applicable 60-day
2 Response Deadline. If these procedures are followed, notice to Class Members shall be deemed
3 to have been fully satisfied, and if the intended recipient of the Settlement Notice does not receive
4 the Class Notice, the intended recipient shall nevertheless remain a Class Member and shall be
5 bound by all terms of the Settlement and the Final Order and Judgment.

6 **37. Determination of Individual Class Payments and Individual PAGA Payments.**

7 The Settlement Administrator shall determine the eligibility for, and the amounts of, each
8 Individual Class Payment and Individual PAGA Payment under the terms of this Agreement
9 based on the number of Compensable Workweeks worked by each Class Member in the
10 applicable Class and/or PAGA Periods. The Administrator will then include the estimated
11 number of Compensable Workweeks and the individual payment amounts in each Class
12 Member's Class Notice.

13 **38. Workweek Disputes.** Class Members who wish to dispute the number of eligible
14 Compensable Workweeks set forth in the Notice, or assert that they should have been included as
15 a member of the Class, may submit a written statement to the Settlement Administrator within the
16 Response Deadline setting forth the number of Compensable Workweeks they believe should be
17 credited to them within the applicable Class or PAGA Period, accompanied by any supporting
18 documentation of their claim. The Settlement Administrator, in consultation with Class Counsel
19 and Defense Counsel, will review the pertinent payroll records, which Defendant agrees to make
20 available to the Settlement Administrator as needed. Defendant's payroll records will be
21 presumed to be correct unless a Class Member proves otherwise by credible evidence. The
22 Settlement Administrator's decision as to the total number of eligible Compensable Workweeks
23 shall be final and non-appealable, subject to the ultimate oversight and approval of the Court if
24 necessary.

25 **39. Objections to the Settlement.** Any Participating Class Member may object to the
26 Settlement by submitting a written objection to the Settlement Administrator which must be
27 mailed (postmarked) by the 60-day Response Deadline, unless that deadline has been extended by
28 a re-mailing of the Class Notice. An objection should include: (a) the objector's full name,

signature, address, and telephone number; (b) a written statement of the grounds for the objection accompanied by any legal support for such objection; and (c) copies of any papers, briefs, or other documents upon which the objection is based. Objecting Class Members may appear at the Final Approval Hearing either in person, or through counsel retained at Class Member's own expense, to have their objection heard, whether or not they had submitted a prior written objection as specified in this section. The Court will rule on any objections to the Settlement at the Final Approval Hearing. An objection may be withdrawn at any time. The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel via email within three (3) calendar days of receipt, and the Settlement Administrator shall attach any objections to its declaration of due diligence, which is to be filed with the Court prior to the Final Approval Hearing. Any Participating Class Member who files an objection remains eligible to receive monetary compensation from the Settlement. At no time shall any of the Parties, Class Counsel, or Defense Counsel solicit or otherwise encourage or discourage Class Members from submitting an Objection or filing an appeal from the Final Order and Judgment. Class Members who submit a Request for Exclusion are ineligible to object to the Settlement.

40. **Requests for Exclusion.** Any Class Member may request to be excluded from ("opt out of") the Settlement by submitting a signed, written request to the Settlement Administrator, clearly communicating that the Class Member wishes to be excluded from the Settlement. To be timely and valid, the Request for Exclusion must be mailed (postmarked) by the Response Deadline, 60 days from the Settlement Administrator's mailing of the Class Notice, unless that deadline has been extended by a re-mailing of the Class Notice. The Request for Exclusion should contain the Class Member's name, address, signature, date, telephone number or email address, and the name of the case. Persons who submit a timely Request for Exclusion will be referred to as Non-Participating Class Members. The Settlement Administrator will accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. Non-Participating Class Members will not be entitled to receive an Individual Class Payment under the Settlement, will not be bound by the terms and conditions of the Class Settlement, and will not be

1 releasing any of the Class Members' Released Claims. However, Non-Participating Class
2 Members who are PAGA-Eligible Employees will still receive Individual PAGA Payments and
3 are precluded from bringing PAGA-Released Claims that are released by Plaintiffs and the State
4 of California, as described above. Any Class Member who does not submit a timely Request for
5 Exclusion will be deemed to be a Participating Class Member and will be bound by the terms and
6 conditions of the Settlement, except as to claims under the FLSA.

7 **41. Revocation of Settlement by Defendant.** If five percent (5%) or more of the
8 Class Members request to be excluded from the Class, Defendant shall have the sole and absolute
9 discretion to revoke the Settlement Agreement. The Settlement Administrator shall provide a list
10 of the Requests for Exclusion within seven (7) calendar days after the Response Date. If
11 Defendant elects to revoke/rescind the Settlement Agreement, it shall provide written notice of
12 such revocation to Class Counsel within seven (7) calendar days after receiving the final list of
13 Requests for Exclusion from the Settlement Administrator. Defendant agrees to meet and confer
14 in good faith with Class Counsel before rescinding or voiding the Settlement Agreement. Such
15 rescission shall have the same effect as a termination of this Settlement Agreement for failure to
16 satisfy a condition of settlement, and the Settlement Agreement shall become null and void and
17 have no further force or effect. No Party will encourage any class member to opt out of the
18 Settlement. If Defendant revokes the Settlement under this provision, it shall be responsible to
19 pay the Settlement Administrator's costs incurred to that point.

20 **42. Workweek Count.** Defendant previously estimated to Plaintiffs' counsel, based
21 on a review of its records, that as of December 13, 2023, extrapolated to February 1, 2024, there
22 were approximately 171,016 Class Member workweeks covering the period from February 13,
23 2015 through February 1, 2024. If the Settlement Administrator determines upon receipt of
24 Defendant's Class Data (and before mailing out the Class Notices) that the actual number of Class
25 Member workweeks as of February 1, 2024 exceeds this amount by more than 10% – that is, if
26 there were 188,119 or more Class Member workweeks as of February 1, 2024 – then, Defendant
27 shall have the option in its sole discretion to either: (a) increase the Maximum Settlement Amount
28 proportionately for each additional workweek worked by Participating Class Members over

1 188,119 workweeks; or (b) agree that the Class Period and the PAGA Period shall cut off as of
2 the date the number of workweeks worked by Participating Class Members is at least 188,119.

3 43. **Weekly Status Reports.** Following the mailing of the Class Notice, the
4 Settlement Administrator will provide Class Counsel and Defense Counsel with weekly reports
5 of, among other things: the number of Class Notices mailed or re-mailed, Class Notices returned
6 undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, and
7 challenges to the number of Compensable Workweeks received and/or resolved. The
8 Administrator will promptly provide counsel for the Parties with copies of any objections
9 received. Additionally, the Settlement Administrator will provide to counsel for the Parties any
10 other updated reports regarding the administration of the Settlement as may be needed or
11 requested from time to time, including any declarations required by the Court.

12 44. **Other Duties of the Settlement Administrator.** The Settlement Administrator
13 shall perform such other duties as may be necessary from time to time, as directed by Counsel or
14 the Court. This shall include, among other things: (1) maintaining and monitoring an email
15 address and toll-free telephone number to receive Class Member calls, faxes and emails; (2)
16 establishing and maintaining an internet website to post necessary information for Class Members
17 regarding this Agreement and the Final Approval Hearing, among other things; (3) providing
18 Counsel for the Parties with a declaration suitable for filing in Court at least 14 calendar days
19 before Plaintiffs are required to file their motion for Final Approval of the Settlement, attesting to
20 the Administrator's compliance with all of its obligations under the Agreement and other
21 necessary information regarding the Class Notices, Requests for Exclusion and objections; and
22 (4) providing a final report and compliance declaration suitable for filing with the Court
23 following the Administrator's disbursement of all the payments required by this Agreement, in
24 accordance with any deadlines set by the Court.

25 **MOTION FOR FINAL APPROVAL**

26 45. **Final Settlement Approval Hearing and Entry of Final Order and Judgment.**
27 Following expiration of the Response Deadline, Plaintiffs shall prepare and file a motion on
28 behalf of all Parties seeking final approval of the Settlement, including a request for approval of

1 the PAGA settlement under Labor Code section 2699(1)(2), a proposed Final Approval Order, and
2 a proposed Judgment. Plaintiffs shall provide drafts of the motion for final approval and
3 proposed Final Order and Judgment to Defense Counsel not later than five (5) business days prior
4 to filing the motion. Plaintiffs' motion for Final Approval shall be accompanied by a declaration
5 from the Settlement Administrator, as referenced above, describing the process and results of the
6 administration of the Settlement to date. Plaintiffs will prepare and include with the Final
7 Approval motion a request seeking approval of Plaintiffs' request for reimbursement of Class
8 Counsel's attorneys' fees and costs incurred in this matter and Plaintiffs' request for a Class
9 Representative Service Awards. Plaintiffs' motion will specify how they wish the total award of
10 attorneys' fees and costs to be apportioned among Plaintiffs' counsel in the Actions.

11 46. **Contents of Proposed Final Order and Judgment.** The proposed Final Order
12 and Judgment will include, among other things:

13 a. Final Approval of the Settlement, adjudging the terms thereof to be fair,
14 reasonable and adequate, and directing consummation of its terms and provisions;

15 b. Approval of Class Counsel's application for an award of attorneys' fees
16 and costs;

17 c. Approval of the Class Representatives' Service Award payments to
18 Plaintiffs;

19 d. Approval of the Settlement Administration Costs;

20 e. Approval of the PAGA Payment;

21 f. The setting of a date when the Parties shall submit the Final Report
22 regarding the distribution of the Maximum Settlement Amount pursuant to California Code of
23 Civil Procedure section 384, and, if necessary, a date for a final accounting hearing following its
24 receipt of the Final Report;

25 g. The entering of a judgment in the Action that is intended to preclude any
26 Class Members from pursuing any individual, class or representative claims against any of the
27 Released Parties that have been released herein pursuant to the Settlement Agreement, upon
28

1 satisfaction of all payments and obligations hereunder, excluding the Class claims of those
2 persons who submitted valid and timely Requests for Exclusion.

3 **47. Duty to Cooperate.** If the Court does not grant Final Approval or conditions
4 Final Approval on any material change to the Settlement, the Parties will expeditiously work
5 together in good faith to address the Court's concerns, including, if necessary, by revising the
6 Agreement to obtain Final Approval. The Court's decision to award less than the amounts
7 requested for the Class Representatives' Service Payment, Class Counsel Award of fees and
8 costs, PAGA amounts, and/or Settlement Administration Costs shall not constitute a material
9 modification of the Agreement within the meaning of this Paragraph.

10 **48. Jurisdiction of the Court Following Judgment.** Following entry of the Final
11 Order and Judgment, the Court shall retain jurisdiction solely with respect to the interpretation,
12 implementation, and enforcement of the terms of this Agreement and all orders and judgments
13 entered in connection therewith; and addressing any other settlement administration and
14 compliance matters that may require its attention. If any party brings an action to enforce the
15 terms of this Agreement, the prevailing party shall be entitled to its/her reasonable attorneys' fees
16 and costs.

17 **SETTLEMENT FUNDING AND PAYMENTS**

18 **49. Information from Settlement Administrator Regarding Funding.** Not later
19 than ten (10) calendar days after the Court's grant of Final Approval of the Settlement, the
20 Settlement Administrator will provide Defense Counsel with an accounting of all anticipated
21 payments from the QSF as specified in this Agreement and approved by the Court, including all
22 necessary routing and payment instructions to the QSF, and including the amount due for the
23 employer's share of payroll taxes on the wage payments to be made outside the Maximum
24 Settlement Amount. The Settlement Administrator also will provide counsel for the Parties with
25 at least fourteen (14) calendar days of lead time, whether before or after the funding date but
26 before the scheduled distribution date, in which to review the Administrator's proposed payment
27 calculations.

1 50. **Funding of Settlement.** Defendants shall pay to the Settlement Administrator the
2 Maximum Settlement Amount, together with the amount that the Settlement Administrator has
3 determined or estimated to be Defendant's share of employer taxes due on the wages being paid
4 under the Settlement, within thirty (30) calendar days after the Effective Date. Defendant shall
5 make the payment in any feasible manner, including, but not limited to, a wire transfer or a check.

6 51. **Timing of Settlement Disbursements.** Within fifteen (15) calendar days after
7 Defendant has provided the Settlement Administrator with the Maximum Settlement Amount, the
8 Settlement Administrator will distribute the payments to Plaintiffs for their Class Representatives'
9 Service Awards, to Class Counsel for their awarded attorneys' fees and costs, to the LWDA, to
10 the Participating Class Members for their Individual Class Payments, to all PAGA-Eligible
11 Employees for their Individual PAGA Payments, and to itself for the Settlement Administration
12 Costs.

13 52. **Method of Individual Payments.** The Settlement Administrator shall mail the
14 Individual Class Payments and Individual PAGA Payments by regular First-Class U.S. Mail to
15 each person's last known mailing address. Prior to mailing the payments, the Settlement
16 Administrator shall perform a search based on the National Change of Address Database
17 maintained by the United States Postal Service to update and correct any known or identifiable
18 address changes.

19 53. **Non-Reversionary Settlement; No Claim Necessary.** Participating Class
20 Members shall not be required to submit a claim in order to receive a share of the Net Settlement
21 Amount, and no portion of the Maximum Settlement Amount shall revert to Defendant. To the
22 extent the Court does not approve the full requested attorneys' fees, litigation costs, Class
23 Representatives' Service Award or Settlement Administration Costs, the Net Settlement Amount
24 will increase accordingly by the difference between the requested amounts and the amounts
25 awarded by the Court. If this Settlement is not finally approved by the Court in full, or is
26 terminated, rescinded, canceled or fails to become effective for any reason, or if the Effective
27 Date does not occur, then no portion of the Maximum Settlement Amount shall be paid.
28

54. **Disposition of Uncashed Checks.** All Individual Class Payment checks and/or Individual PAGA Payment checks issued by the Settlement Administrator must be cashed within one hundred eighty (180) days after issuance. After the expiration of the 180-day period, the Settlement Administrator will void any uncashed checks. Subject to the Court's approval, the Settlement Administrator will transmit the total amount of any uncashed Individual Class Payment checks to the State of California Office of the Controller Unclaimed Property Fund in the name of the Participating Class Members who did not cash their checks, pursuant to California Code of Civil Procedure section 384(b). Any uncashed Individual PAGA Payment checks will also be distributed to the to the State of California Office of the Controller Unclaimed Property Fund in the name of the PAGA-Eligible Employees who did not cash their PAGA Payment check.

55. **Settlement Binding Even If Checks Not Cashed.** Except for claims under the FLSA (*see* paragraph 25, above), which will only be released if a Participating Class Member cashes his or her check, in the event a Participating Class Member or Participating PAGA Member fails to cash/deposit his or her Individual Class Payment check and/or Individual PAGA Payment check, for whatever reason, that person shall nevertheless remain bound by the Class Members' Release (*see* paragraph 24, above) and, if applicable, the PAGA Release (*see* paragraph 26, above).

ADDITIONAL PROVISIONS

56. **Nullification of Settlement for Other Reasons.** In the event: (i) the Court does not enter the Preliminary Approval Order; (ii) the Court does not grant Final Approval of the Settlement; (iii) the Court does not enter the Final Order and Judgment; or (iv) the Settlement does not become final for any other reason, this Agreement shall be rendered null and void, and any order or judgment entered by the Court in furtherance of this Agreement shall be treated as void from the beginning. In such a case, this Agreement and any documents related to it shall not be used by any Class Member or Class Counsel to support any claim or request for class certification in the Actions, and shall not be used in any other civil or administrative action against Defendant or any of the other Released Parties.

1 **57. Plaintiffs' Waiver of Right to Be Excluded.** Plaintiffs agree that by signing this
2 Agreement, they will be bound by the terms herein. Plaintiffs further agree that, upon signing this
3 Agreement, they will not request to be excluded from this Settlement, and that any such request
4 for exclusion by Plaintiffs will be void and of no force or effect.

5 **58. Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms
6 and conditions of this Agreement, the Parties, their respective counsel, and all Participating Class
7 Members who did not object to the Settlement as provided in this Agreement waive all rights to
8 appeal from the Judgment. If an objector appeals the Judgment, the Parties' obligations to
9 perform under this Agreement will be suspended until the appeal is finally resolved and the
10 Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement
11 Amount. However, nothing in this Agreement shall preclude Plaintiffs from appealing from a
12 court order denying or failing to grant in full their requests for attorneys' fees, costs, or service
13 award. Any order reducing the Class Counsel Award or the Class Representatives' Service
14 Award will not be grounds on Plaintiffs' part to nullify or void this Settlement.

15 **59. No Credit Towards Defendant's Benefit Plans.** Neither the terms of this
16 Settlement nor any of the amounts paid to Plaintiffs or any Class Member shall have any effect on
17 the eligibility or calculation of any employee benefits under Defendant's benefit plans. Any
18 Individual Class Payments or Individual PAGA Payments paid under the Settlement do not
19 represent any modification of any recipient's previously-credited hours of service or other
20 eligibility criteria, and will not be utilized to calculate any additional benefits, vesting or credit
21 under any bonus or compensation plan, collective bargaining agreement, employee pension
22 benefit plan, employee welfare benefit plan, or any other program or policy sponsored by
23 Defendant or any Sutter Health affiliates. It is the intent of the Parties that the Individual Class
24 Payments and Individual PAGA Payments provided for in this Agreement are the sole payments
25 to be made by Defendant to Class Members and others in connection with this Settlement, and
26 that the Class Members are not entitled to any new or additional compensation or benefits as a
27 result of having received the Individual Class Payments and/or Individual PAGA Payments.
28

1 **60. No Admission of Liability, Class Certification or Representative**
2 **Manageability for Other Purposes.** Defendant denies all claims alleged in the Action and
3 denies all wrongdoing whatsoever by Defendant. Defendant further denies that any of its
4 employees has been “aggrieved” by a violation of the Labor Code. Neither this Agreement, nor
5 any of its terms and conditions, nor any of the negotiations connected with it, is a concession or
6 admission, and none shall be used against Defendant as an admission or indication with respect to
7 any claim of any fault, concession, or omission by Defendant or that class certification is proper
8 under the standard applied to contested certification motions. The Parties agree that certification
9 of the proposed class and representative treatment under PAGA is for purposes of this Settlement
10 only. This Agreement will not be admissible in this or any other proceeding as evidence that
11 either a class action should be certified, that Plaintiffs’ PAGA claims are manageable for trial, or
12 that Defendant is liable to Plaintiffs or any Class Member, other than according to the terms of
13 this Agreement.

14 **61. Publicity and Confidentiality.** The Parties and their counsel will treat the terms
15 of this Settlement as strictly confidential prior to the filing of the preliminary approval motion.
16 Both before and after the filing of the preliminary approval motion, the Parties and their counsel
17 will not issue any press releases or initiate any contact with the media about this case and/or the
18 fact, amount, or terms of the Settlement. If, after the filing of the preliminary approval motion,
19 counsel for either Party receives an inquiry about the Settlement from the media, counsel may
20 respond but must limit such response to the terms of the Settlement as those terms are set forth in
21 the public record. After the filing of the preliminary approval motion, Plaintiffs’ counsel shall be
22 permitted to discuss the terms of the Settlement with any Settlement Class members who inquire
23 about the terms.

24 **62. Tax Liability.** The Parties and their counsel make no representations as to the tax
25 treatment or legal effect of the payments specified herein, and Class Members are not relying on
26 any statement or representation by the Parties, Class Counsel or Defense Counsel in this regard.
27 Participating Class Members, PAGA-Eligible Employees, Class Counsel, and Plaintiffs shall be
28 solely and legally responsible for the payment of all applicable taxes and penalties assessed on the

1 payments specified herein other than the employer's share of the payroll taxes due on the
2 payments designated as wages.

3 **63. Circular 230 Disclaimer.** The Parties acknowledge and agree that (i) no
4 provision of this Agreement, and no written communication or disclosure between or among the
5 Parties, Class Counsel or Defense Counsel and other advisors, is or was intended to be, nor shall
6 any such communication or disclosure constitute or be construed or be relied upon as, tax advice
7 within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
8 amended); (ii) the acknowledging party (a) has relied exclusively upon his, her, or its own,
9 independent legal and tax counsel for advice (including tax advice) in connection with this
10 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other
11 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
12 communication or disclosure by any attorney or advisor to any other party to avoid any tax
13 penalty that may be imposed on the acknowledging party; and (iii) no attorney or advisor to any
14 other party has imposed any limitation that protects the confidentiality of any such attorney's or
15 advisor's tax strategies (regardless of whether such limitation is legally binding) upon disclosure
16 by the acknowledging party of the tax treatment or tax structure of any transaction, including any
17 transaction contemplated by this Settlement.

18 **64. Authorization to Enter into Agreement.** Class Counsel and Defense Counsel
19 warrant and represent that they are expressly authorized by the Parties whom they represent to
20 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
21 the Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents
22 required to effectuate its terms. The person signing this Stipulation of Settlement on behalf of
23 Defendant represents and warrants that he/she is authorized to sign this Agreement on behalf of
24 Defendant. Plaintiffs represent and warrant that they are authorized to sign this Agreement on
25 behalf of themselves and the Class, and as proxies for the State of California, and that they have
26 not assigned any claim or part of a claim covered by this Agreement to a third party.

27 **65. Cooperation to Effectuate Settlement.** The Parties, Class Counsel and Defense
28 Counsel shall cooperate with each other and use their best efforts to effect the implementation of

1 this Settlement. In the event the Parties are unable to reach agreement on the form or content of
2 any document needed to implement the Settlement, or on any supplemental provisions that may
3 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of
4 the Court to resolve such disagreement.

5 **66. Invalidity of Any Provision.** In the event the Court declares any material
6 provision of this Agreement invalid, the Agreement will be void and its terms will be of no force
7 and effect, except as otherwise agreed by the Parties in writing, subject to the Court's approval.
8 Before the Court concludes that any term or provision of this Agreement is invalid, the Parties
9 will request that the Court first attempt to construe the terms or provisions valid to the fullest
10 extent possible consistent with applicable precedents so as to define all provisions of this
11 Agreement as valid and enforceable. The Parties further agree to meet and confer in an attempt to
12 resolve any issues or concerns the Court may have as to the validity of any provision in an effort
13 to effectuate the essential terms of this Settlement, and to discuss any possible amendments to this
14 Agreement or its Exhibit 1 needed to obtain the Court's approval of the Settlement.

15 **67. Binding Nature of Notice of Class Action Settlement.** It is agreed that, because
16 the Class Members are so numerous, it is impossible or impractical to have each Class Member
17 execute the Agreement. The Class Notice shall advise all Class Members of the binding nature of
18 the Settlement, and the release of the Class Members' Released Claims as described above shall
19 have the same force and effect as if this Agreement were executed by each Participating Class
20 Member.

21 **68. Entire Agreement.** This Agreement and its attached Exhibit 1 constitute the
22 entire agreement between the Parties, and no oral or written representations, warranties, or
23 inducements have been made to Plaintiffs or Defendant concerning this Agreement or Exhibit 1
24 other than the representations, warranties, and covenants contained and memorialized in this
25 Agreement and Exhibit 1. No other prior or contemporaneous written or oral agreements may be
26 deemed binding on the Parties.

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

70. **Amendment or Modification.** This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest and approved by the Court.

71. **Governing Law.** All terms of this Agreement and its exhibit shall be governed by and interpreted according to the laws of the State of California, without regard to conflict of law principles.

72. **Binding on Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties.

73. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

65. **Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email, which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them shall be deemed to be one and the same instrument if counsel for the Parties exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have knowingly and voluntarily executed this Amended Joint Stipulation of Class Action and PAGA Settlement and Release on the dates set forth below:

DATED: _____

JENNIFER WARD, Plaintiff

DATED:

SACORA BESABE, Plaintiff

1 DATED: _____
2
3

SUTTER VALLEY HOSPITALS

4 By: _____
5

6 Name: _____
7

8 Title: _____
9

10 APPROVED AS TO FORM AND CONTENT:
11

12 DATED: _____
13

THE MARKHAM LAW FIRM

14 By: _____
15

David R. Markham

Lisa R. Brevard

Counsel for Plaintiffs, the Class and the
Aggrieved Employees

COHELAN KHOURY & SINGER

16 By: _____
17

Isam C. Khoury

Michael D. Singer

Maggie K. Realin

Counsel for Plaintiffs, the Class
and the Aggrieved Employees

18 DATED: _____
19

GBG LLP

20 By: _____
21

Thomas E. Geidt

Teresa W. Ghali

Rachel E. Davey

Counsel for Defendant Sutter Valley Hospitals