

REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into between Plaintiff Phillip Carson in his capacity as a private attorney general pursuant to the California Labor Code Private Attorneys General Act on behalf of himself, other Aggrieved Employees, and the California Labor and Workforce Development Agency (“LWDA”) on the one hand; and Defendant Downtown San Diego Partnership Clean and Safe (“Downtown San Diego” or “Defendant”), on the other hand.

1. PREAMBLE

This Settlement Agreement is intended to resolve all claims made pursuant to the California Labor Code Private Attorneys General Act (“PAGA”) in connection with the lawsuit: *Phillip Carson v Downtown San Diego Partnership Clean and Safe* (Superior Court of California, County of San Diego, Case No. 37-2020-00016887-CU-OE-CTL) (“Action”). This Settlement Agreement is subject to the approval of the Court pursuant to section 2699(l) of the California Labor Code, and shall be effectuated and subject to the following terms and conditions:

2. DEFINITIONS

2.1 “**Action**” means the lawsuit entitled *Phillip Carson v. Downtown San Diego Partnership Clean and Safe* (Superior Court of California, County of San Diego, Case No. 37-2020-00016887-CU-OE-CTL), filed on May 26, 2020; as modified by the Dismissals entered on May 21, 2021, and June 4, 2021.

2.2 “**Agreement**” or “**Settlement**” means this Representative Action Settlement Agreement and Exhibits A and B hereto.

2.3 “**Attorneys’ Fees and Litigation Expenses**” means the attorneys’ fees and litigation expenses to be requested by Settlement Group Members’ Counsel subject to Court approval in accordance with this Agreement.

2.4 “**Complaint**” means the Complaint, First Amended Complaint, and Second Amended Complaint, filed in the Superior Court of the State of California, County of San Diego in Case No. 37-2020-00016887-CU-OE-CTL on May 26, 2020; as modified by the Dismissals entered on May 21, 2021, and June 4, 2021.

2.5 “**Court**” means the San Diego County Superior Court and any appellate court which may review any orders entered by the San Diego County Superior Court related to this Settlement.

2.6 “**Downtown San Diego Released Parties**” means Downtown San Diego Partnership Clean and Safe, and all of its current or former subsidiaries, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, partners, employers, attorneys, personal representatives, executors, and shareholders.

2.7 “**Execution**” means the signing of this Agreement by all signatories hereto.

2.8 “**Final Judgment and Order of Dismissal**” means the Final Judgment and Order of

Dismissal approving the Settlement, entering judgment and dismissing the PAGA Action with prejudice as against Downtown San Diego Partnership Clean and Safe, substantially in the form of the proposed Final Judgment and Order of Dismissal attached hereto as Exhibit A, which this Settlement contemplates will be entered and approved by the Court.

2.9 **“Gross Settlement Amount”** means the maximum amount of money that Downtown San Diego will be obligated to pay under this Settlement, \$200,000, on a non-reversionary basis as provided for in this Agreement. Under no circumstances shall Downtown San Diego be obligated to pay more than the Gross Settlement Amount in connection with this Settlement.

2.10 **“LWDA Payment Amount”** means the amount payable to the LWDA pursuant to the PAGA, Cal. Lab. Code section 2699(i) and as specified in Subsection 4.2.1 of this Agreement.

2.11 **“Notice(s)”** means the document substantially in the form of the document attached hereto as Exhibit B, which has been agreed to by the Parties and, subject to Court approval, which shall be sent to the Settlement Group Members with the Settlement Payments to inform them of the material terms of the Agreement and the Released Claims.

2.12 **“Notice and Settlement Administration Costs”** means the costs to be paid to the Settlement Administrator for the purposes of preparing and sending Notices and payments pursuant to this Agreement, and performing other settlement administration functions in accordance with this Agreement, which will be paid from the LWDA Payment Amount.

2.13 **“PAGA Representative”** or **“Plaintiff”** means Plaintiff Phillip Carson in his capacity as private attorney general pursuant to the PAGA on behalf of himself, other Aggrieved Employees, and the State of California in as alleged in the Complaint.

2.14 **“Parties”** means the PAGA Representative and Downtown San Diego.

2.15 **“Released Claims”** means the claims that are released, acquitted and discharged by the Settlement Group Members and the State of California pursuant to Section 8 of this Agreement.

2.16 **“Service Payment”** means the amount Settlement Group Members’ Counsel may request to be paid as a service payment to Phillip Carson as the Named Plaintiff and PAGA Representative which shall be paid in accordance with this Agreement, subject to the Court’s approval.

2.17 **“Settlement Administrator”** means, subject to Court approval, Phoenix Class Action Administration Solutions, the entity who shall perform certain notice and claims administration functions in accordance with this Agreement.

2.18 **“Settlement and Release Period”** means the period of time from March 22, 2019, through November 16, 2021.

2.19 **“Settlement Effective Date”** means the first day following the last of the following occurrences:

2.19.1. The date of the entry of the Final Judgment and Order of Dismissal; or

- 2.19.2. If an appeal or other judicial review has been taken, the latest of: (i) the date the Final Judgment and Order of Dismissal is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom; or (ii) the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if remanded to the trial court or to a lower appellate court following appeal or other review, the date the Final Judgment and Order of Dismissal is entered by the trial court after remand and the time to appeal or seek permission to appeal or seek other judicial review following remand has expired with no further appeals or other judicial review having been taken or sought. If further appeals are sought or taken after a remand, the time periods in this Sub-Section shall apply.

2.20 “**Settlement Group**,” “**Settlement Group Members**” and/or “**Aggrieved Employees**” mean(s) all non-exempt employees who at any time during the Settlement and Release Period worked at Downtown San Diego, including, but not limited to Phillip Carson.

2.21 “**Settlement Group Data**” means information that Downtown San Diego will provide in electronic form (including in an excel document) to the Settlement Administrator which contains the following information for each Settlement Group Member: name, last-known address, last-known phone number, and Social Security Number or Individual Taxpayer Identification Number. Downtown San Diego shall also provide the Settlement Administrator with the total number of pay periods worked by each Settlement Group Member during the Settlement and Release Period. Downtown San Diego will provide this information as soon as practicable after the Court grants approval of the Settlement, but no later than ten (10) business days after the Court grants approval of the Settlement.

2.22 “**Settlement Group Members’ Counsel**” means Graham S.P. Hollis and Hali M. Anderson of GrahamHollis, APC.

2.23 “**Settlement Group Payment Amount**” means the amount payable to Settlement Group Members in accordance with this Agreement.

3. RECITALS

3.1 On April 9, 2020, counsel for Plaintiff Phillip Carson submitted a letter to the LWDA and Downtown San Diego notifying them that Plaintiff intended to seek penalties against Downtown San Diego pursuant to PAGA for Downtown San Diego’s alleged violation of California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and the applicable Wage Orders. The LWDA did not respond to Plaintiff’s letter or give notice that it would investigate the matter.

3.2 On May 26, 2020, Plaintiff filed a class action entitled *Phillip Carson, individually and on behalf of all other similarly situated employees of Defendants in the State of California v. Downtown San Diego Partnership Clean and Safe, and DOES 1 through 50, inclusive*, alleging

the following causes of action: 1) Failure to Provide Meal Periods; 2) Failure to Provide Rest Periods; 3) Failure to Pay Minimum and Regular Wages; 4) Failure to Pay Overtime Wages; 5) Failure to Pay Reporting Time Pay; 6) Failure to Indemnify Necessary Business Expenses; 7) Failure to Provide Accurate Itemized Wage Statements; 8) Failure to Maintain Accurate Records; 9) Failure to Timely Pay Wages Due Upon Separation of Employment; and 10) Violation of Business & Professions Code 17200, *et seq.*

3.3 On June 23, 2020, Plaintiff filed a First and Second Amended Complaint adding a representative claims under PAGA and individual claims for: 1) Discrimination on The Basis of Disability; 2) Failure to Provide Reasonable Accommodations; 3) Failure to Engage in an Interactive Process; 4) Failure to Prevent Discrimination; 5) Violation of The California Family Rights Act (“CFRA”); 6) Interference with Exercise of CFRA Rights; 7) Retaliation for Exercise of CFRA Rights; and 8) Wrongful Termination in Violation of Public Policy.

3.4 On May 18, 2021, Plaintiff filed a dismissal of the class claims in this Action. This dismissal was entered on May 21, 2021.

3.5 On June 4, 2021, the Parties attended a Case Management Conference. At the Conference, Plaintiff informed the Court he would be dismissing his individual claims. The Court then dismissed Plaintiff’s individual claims on the record and issued an order thereon.

3.6 Downtown San Diego denied and continues to deny liability or wrongdoing and all of Plaintiff’s material allegations including, but not limited to, those made in the Complaint.

3.7 On August 16, 2021, the Parties participated in a private mediation with the Honorable Steven Denton (Ret.) and were able to reach an agreement to settle this Action as set forth in this Agreement.

3.8 Plaintiff believes this Action is meritorious. Settlement Group Members’ Counsel represents that they have conducted a thorough investigation into the facts of this case, and have diligently pursued an investigation of the Settlement Group Members’ claims against Downtown San Diego, including, but not limited to: (i) reviewing hundreds of pages of relevant documents and other voluminous data (pay records, timesheets, and wage statements); (ii) researching the applicable law and the potential defenses; (iii) interviewing dozens of Downtown San Diego non-exempt employees; (iv) and (ix) attending a full-day mediation, and engaging in further negotiations and communications with an experienced and respected mediator. Plaintiff also reviewed voluminous financial documents produced by Defendant and had these records reviewed by a third-party consultant. Defendant’s financial records showed that Defendant had limited financial resources with which to resolve these claims. Based on their own independent investigation and evaluation, Settlement Group Members’ Counsel are of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interest of the State of California and the Settlement Group Members in light of all known facts and circumstances, including the risk of significant delay, the defenses asserted by Downtown San Diego, trial risk, appellate risk and Defendant’s financial condition.

3.9 Downtown San Diego denies any liability or wrongdoing of any kind associated with the claims alleged and maintains that the PAGA Actions are unmanageable as a PAGA representative action. Defendant further asserts that it has complied with all applicable provisions of federal or state statutory and common law throughout the Settlement and Release Period. Defendant also asserts that, even if the Court were to find it liable in this Action, substantial penalties under PAGA are not warranted and would not be awarded. Defendant continues to adhere to all defenses and objections it raised throughout this litigation. Defendant further maintains that it has entered into this agreement to avoid the cost, delay and uncertainty of litigation

3.10 The entry of the Final Judgment and Order of Dismissal shall dismiss this Action with prejudice. The Parties agree to cooperate and take all steps necessary and appropriate to obtain approval of this Settlement, to effectuate its terms, and, to the extent of the obligations set forth herein, to dismiss this Action against Downtown San Diego with prejudice.

3.11 Each of these Recitals is incorporated into this Agreement as if fully set forth herein.

4. TERMS OF SETTLEMENT

This Agreement is a product of compromise. Nothing in this Agreement shall be construed to be an admission by Plaintiff, the Settlement Group Members or the LWDA that their PAGA claims do not have merit or by Downtown San Diego of any liability or wrongdoing as to Plaintiff, the Settlement Group Members, or any other person. The Parties have entered into this Agreement to avoid further disputes and litigation with the attendant inconvenience, nuisance, expenses, and risks. This Agreement and any related Court documents or orders are not and may not be cited or admitted as evidence of liability. The Parties agree that an express condition of this Agreement is that there has been no finding of liability on the merits, and that this Agreement therefore cannot be a basis to assert offensive collateral estoppel against Downtown San Diego.

Subject to the other terms and conditions of this Agreement, and subject to Court approval, Downtown San Diego agrees to the following:

4.1 Downtown San Diego agrees to pay the Gross Settlement Amount of \$200,000 on a non-reversionary basis pursuant to the terms of this Agreement, so long as the Settlement Effective Date occurs. The Gross Settlement Amount will cover (1) the amount of Attorneys' Fees and Litigation Expenses awarded by the Court; (2) the Service Payment approved by the Court; (3) Notice and Settlement Administration Costs approved by the Court; (4)

4.1.1 LWDA Payment Amount: The LWDA Payment Amount shall be payable to the California Labor and Workforce Development Agency pursuant to Section 2699(i) of PAGA. The LWDA Payment Amount shall consist of seventy-five percent (75%) of the Gross Settlement Amount less the following:

4.1.1.1 Attorneys' Fees and Litigation Expenses

4.1.1.2 Plaintiff's Service Payment; and

4.1.1.3 Notice and Settlement Administration Costs.

4.1.2 Settlement Group Payment Amount.

4.1.2.1 The Settlement Group Payment Amount shall consist of twenty-five percent (25%) of the Gross Settlement Amount, or \$50,000. The Settlement Group Payment Amount shall constitute the share of PAGA penalties recoverable by the Settlement Group Members pursuant to Section 2699(i) of PAGA. Settlement Group Members do not need to make a claim to participate in the Settlement.

4.1.2.2 The Settlement Administrator will manage the administration of the Settlement in cooperation with Settlement Group Members' Counsel and Downtown San Diego and in accordance with the following parameters:

4.1.2.2.1 The Settlement Administrator shall pay a share from the Settlement Group Payment Amount as calculated based on the provisions of Subsection 4.2.2.3 to each Settlement Group Member.

4.1.2.3 The amount that a Settlement Group Member may receive from the Settlement Group Payment Amount shall be calculated on a pro rata basis based upon the number of pay periods during which the Settlement Group Member worked at Downtown San Diego California during the Settlement and Release Period, as follows:

4.1.2.3.1 A Settlement Group Member's share will be calculated by dividing the total Settlement Group Payment Amount by the total number of pay periods worked by all Settlement Group Members at Downtown San Diego California during the Settlement and Release Period. The monetary value of each pay period will be calculated by dividing the Settlement Group Payment Amount by the aggregate number of pay periods for all Settlement Group Members.

4.1.2.3.2 Partial pay periods worked will be rounded up to the nearest full pay period.

4.1.2.3.3 The number of pay periods that each Settlement Group Member was employed will be determined based upon the Settlement Group Data provided by Downtown San Diego to the Settlement Administrator.

4.1.2.4 The Settlement Group Payment Amount shall be distributed to Settlement Group Members in an amount calculated pursuant to Subsection 4.2.2.3

and in the form of a mailed check that shall remain valid for one hundred eighty (180) calendar days from issuance. For any Settlement Group Member whose check remains uncashed ninety (90) calendar days from issuance, the Settlement Administrator shall mail a reminder notice that the check will only remain valid for one hundred eighty (180) calendar days from issuance. Thereafter, all uncashed checks shall be voided and any remaining monies from the Settlement Group Payment Amount shall be paid to the LWDA.

- 4.2 So long as the Settlement Effective Date has occurred and completion of payment calculations as required under 4.2.2.3, the Settlement Administrator may pay the LWDA Payment, distribute checks to Settlement Group Members, and pay all Court-approved Attorneys' Fees and Litigation Expenses, Service Payment and Settlement Administrator costs within five business days after the later of the Settlement Effective Date or the date that the full Gross Settlement Amount has been transferred to the Settlement Administrator.

4.2.1 Attorneys' Fees and Litigation Expenses.

4.2.1.1 Settlement Group Members' Counsel shall apply to the Court for an award of reasonable Attorneys' Fees in the amount of Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$66,666.67) or 33 1/3% of the Gross Settlement Amount and reimbursement of actual Litigation Expenses incurred by Settlement Group Members' Counsel not to exceed (\$9,000.00) in total costs for all Settlement Group Members' Counsel. Downtown San Diego takes no position on the reasonableness of the Attorneys' Fees and Litigation Expenses sought by Settlement Group Members' Counsel and, therefore, will not oppose such a request. Subject to Court approval, the amount of Attorneys' Fees and Litigation Expenses approved by the Court shall be paid from the LWDA Payment Amount in accordance with Subsection 4.2.1 of this Agreement. Where applicable, this payment will be reported on an IRS Form 1099 issued to Settlement Group Members' Counsel. Should the Court award less than the full amount of Attorneys' Fees and Litigation Expenses sought, the difference shall revert to the Gross Settlement Amount for distribution to the LWDA, subject to Section 12.2.

4.2.2 Service Payment.

4.2.2.1 Settlement Group Members' Counsel shall apply to the Court for a Service Payment in the amount of Two-Thousand Five Hundred Dollars (\$2,500) to be paid to the Plaintiff Carson as the PAGA Representative, which will be paid from the LWDA Payment Amount in accordance with Subsection 4.2.1 of this Agreement. Downtown San Diego takes no position on the reasonableness of the Service Payment sought by Settlement Group Members' Counsel for the Named Plaintiff/PAGA Representative and, therefore, will not oppose such a request. Should the Court award less than the full amount of the Service Payment requested,

the difference shall revert to the Gross Settlement Fund for distribution to the LWDA.

4.2.3 Notice and Settlement Administration Costs.

4.2.3.1 Settlement Administrator shall be paid reasonable Notice and Administration Costs up to (Two-Thousand Three Hundred Fifty Dollars) (\$2,350), which will be paid from the LWDA Payment Amount in accordance with Subsection 4.2.1 of this Agreement.

4.2.3.2 Under no circumstances shall Downtown San Diego be obligated to pay more than the Gross Settlement Amount in connection with this Settlement.

**5. NOTICE AND PAYMENTS TO SETTLEMENT GROUP MEMBERS,
SETTLEMENT GROUP MEMBERS' COUNSEL, PAGA REPRESENTATIVE,
LWDA AND SETTLEMENT ADMINISTRATOR**

5.1 The Settlement Administrator shall provide to Settlement Group Members the Notice of the Settlement substantially in the form of attached **Exhibit B**, subject to Court approval. Given that this is a PAGA Settlement, Settlement Group Payment checks will be mailed with the Notices, as well as 1099 forms, if needed.

5.2 The Notice and Settlement Group Payment checks shall be sent via first class mail to the last known address of each Settlement Group Member as provided in the Settlement Group Data. Prior to mailing the Notice, the Settlement Administrator will run the names and addresses through the National Change of Address Database to verify/update the address information. For returned mail, the administrator will utilize one or more skip tracing methods in order to determine current address information, and will re-mail Notices and Settlement Group Payment checks when updated addresses are ascertained.

5.3 The Notice and Settlement Group Payment checks will be sent out to Settlement Group Members by the Settlement Administrator no later than thirty (30) calendar days after the receipt of the Settlement Group Data from Downtown San Diego, or thirty (30) calendar days after the receipt of funds in accordance with Section 7.1, whichever is later.

5.4 There is no provision in the PAGA for Settlement Group Members to object to or opt out of the Settlement.

5.5 Attorneys' Fees and Litigation Expenses awarded by the Court, the Service Payments approved by the Court, and the Settlement Administration Costs approved by the Court shall be paid by the Settlement Administrator no later than thirty (30) calendar days after the receipt of funds in accordance with Section 7.1.

5.6 Payment to the LWDA shall be made by the Settlement Administrator no later than thirty (30) calendar days after the receipt of funds in accordance with Section 7.1.

6. LWDA NOTICE

6.1 Settlement Group Members' Counsel shall provide notice of the Settlement and any Court order entering Judgment to the LWDA in accordance with the PAGA.

7. SETTLEMENT FUNDING

7.1 Downtown San Diego shall transfer the Gross Settlement Amount to the Settlement Administrator within ten (10) business days of the Effective Date.

8. COMPREHENSIVE WAIVER, RELEASE, AND DISMISSAL

8.1 Subject to approval by the Court of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, Plaintiff, all Settlement Group Members and the State of California irrevocably release, acquit, and forever discharge Downtown San Diego Released Parties of and from any and all claims for civil penalties under California Labor Code Private Attorney General Act of 2004 ("PAGA"), arising from, or related to, the same set of operative facts as those set forth in the operative Complaint that are based upon, or derive from alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and the applicable Wage Orders (the "PAGA Released Claims").

8.2 The express purposes of this Agreement and the Judgment to be entered by the Court following approval of this Agreement is to forever bar Plaintiff, any Settlement Group Members, the LWDA, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA from asserting any of the PAGA Released Claims in any future litigation. It is the intent of the Parties that, to the greatest extent provided by law, including under the holding of *Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009), the ability of Plaintiff, the State of California and any Settlement Group Members (which includes any legal heirs and/or successors in interest of each and every Settlement Group Member, including Plaintiff) to bring a PAGA Released Claim on behalf of the LWDA is completely and forever foreclosed. Any Party to this Agreement may use the Agreement to assert that this Agreement and the Judgment to be entered by the Court following approval of this Agreement bars any later-filed action asserting any of the PAGA Released Claims against Downtown San Diego. The provisions of this Agreement and this section apply regardless of whether Plaintiffs and/or the Settlement Group Members cash the checks being sent to them pursuant to this Agreement, so long as the Gross Settlement Amount is administered and carried out according to this Agreement. Beyond the Gross Settlement Amount, Downtown San Diego shall not owe any further monies to anyone for the PAGA Released Claims or as a result of this Settlement.

8.3 Given the payment of fees and costs contemplated by this Agreement, the State of California and Settlement Group Members' Released Claims also release all claims for Attorneys' Fees and Costs incurred by Settlement Group Members on behalf of the State of California and on their behalf or by Settlement Group Members' Counsel or any other attorney in connection with this Action, and this Settlement, and all claims related to conduct in discovery in the this Action to the extent such fees and costs exceed the fees and costs payable by operation

of this Settlement.

8.4 The Parties acknowledge that this Settlement, including the releases provided in this Section, reflects a compromise of disputed claims. The Final Judgment and Order of Dismissal shall dismiss this Action with prejudice and shall incorporate the terms of this release.

9. DUTIES OF THE PARTIES WITH RESPECT TO OBTAINING COURT APPROVAL

9.1 Settlement Group Members' Counsel shall apply to the Court for approval of the Settlement and for entry of a proposed Final Judgment and Order of Dismissal substantially in the form attached hereto as Exhibit A. The proposed Final Judgment and Order of Dismissal shall:

9.1.1 Approve the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate and directing consummation of its terms and provisions;

9.1.2 Approve Payment of the Gross Settlement Amount pursuant to this Agreement;

9.1.3 Approve Settlement Group Members' Counsel's application for an award of Attorneys' Fees and Litigation Expenses pursuant to this Agreement;

9.1.4 Approve the Service Payment to Named Plaintiff;

9.1.5 Approve the Notice and Settlement Administration Costs;

9.1.6 Dismiss this PAGA Action as between Plaintiff, the State of California and the Settlement Group Members, on the one hand, and Downtown San Diego on the other hand, on the merits and with prejudice and permanently bar Plaintiff, the State of California and all Settlement Group Members from further prosecuting any of the Settlement Group Members' Released Claims against Downtown San Diego.

9.2 Downtown San Diego shall cooperate with Settlement Group Members' Counsel to obtain approval of the Settlement and entry of the Final Judgment and Order of Dismissal of the PAGA Actions as to Downtown San Diego.

9.3 The Final Judgment and Order of Dismissal shall not be considered final until the occurrence of the Settlement Effective Date.

10. MUTUAL FULL COOPERATION

10.1 The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement, including but not limited to execution of all necessary documents, and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any

other efforts that may become necessary by order of the Court or otherwise, to effectuate the terms of this Settlement. As soon as practicable after execution of this Settlement, Settlement Group Members' Counsel shall, with the assistance and cooperation of Downtown San Diego and its counsel, take all necessary steps to secure the Court's Judgment and Order of Dismissal.

11. STATEMENT OF NO ADMISSION

11.1 Nothing contained in this Agreement shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of Downtown San Diego, and Downtown San Diego denies liability for any alleged wrongdoing. Downtown San Diego expressly denies liability for the claims asserted and specifically denies and does not admit any of the pleaded facts not admitted in its pleadings in the PAGA Actions. Nor shall this Agreement constitute an admission by Downtown San Diego as to any interpretation of laws or as to the merits, validity, or accuracy of any claims made against it in this Action. Likewise, nothing in this Agreement shall be construed or deemed an admission by Plaintiff or the Settlement Group Members with regards to the validity of any of the defenses or affirmative defenses that Downtown San Diego asserted during the pendency of the litigation. Each of the Parties has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

11.2 This Agreement, and all related documents, including the Settlement Agreement and Notice and all other actions taken in implementation of the Settlement, including any statements, discussions, or communications, and any materials prepared, exchanged, issued, or used during the course of the negotiations leading to this Agreement are settlement documents and shall be inadmissible in evidence and shall not be used for any purpose in these PAGA Actions or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or any other litigation against Downtown San Diego, for any purpose, except in an action or proceeding to approve, interpret, or enforce the terms of this Agreement.

11.3 Except to the extent necessary for Downtown San Diego to demonstrate court approval of this Settlement, neither this Agreement, nor the Court's actions with regard to this Agreement, will be deemed admissible in this Action and are not intended to be admissible (and Plaintiff and Settlement Group Members' Counsel shall not seek their admission), in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or in any other litigation. In the event that this Agreement is not approved by the Court or any appellate court, or otherwise fails to become effective and enforceable, or is terminated, or the Settlement Effective Date does not occur for any reason, Downtown San Diego will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in this Action. Such objections and defenses include, but are not limited to, Downtown San Diego's objections and defenses to any representative treatment and nothing in this Agreement or any document related to this Agreement shall be construed as a waiver by Downtown San Diego of its contention that representative treatment is not appropriate and is contrary to law in this Action or any other case or proceeding.

12. VOIDING THE AGREEMENT

12.1 Subject to the provisions of Section 12.2 and 12.3, in the event that this Settlement is not approved, or if for any reason the Settlement Effective Date does not occur, the Settlement Agreement shall be deemed null, void, and unenforceable and shall not be used nor shall it be admissible in any subsequent proceedings either in this Court or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding, or other litigation against Downtown San Diego, and the Parties shall return to their respective positions prior to the Execution of this Agreement.

12.2 In the event that the Court reduces the Attorneys' Fees and Litigation Expenses requested by Settlement Group Members' Counsel, that finding shall not be a basis for rendering the entire Settlement Agreement null, void, or unenforceable. Settlement Group Members' Counsel retains their right to appeal any decision by the Court regarding the Attorneys' Fees and Litigation Expenses.

12.3 In the event that the Court reduces the Service Payment in the amount requested by Settlement Group Members' Counsel, that finding shall not be a basis for rendering the entire Settlement Agreement null, void, or unenforceable. Settlement Group Members' Counsel retains their right to appeal any decision by the Court regarding the Service Payment.

13. SIGNATORIES' AUTHORITY

13.1 The respective signatories to this Agreement each represent that they are fully authorized to enter into this Settlement on behalf of the respective Parties for submission to the Court for approval.

14. NO PRIOR ASSIGNMENTS

14.1 The Parties represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

15. NOTICES

15.1 Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given: (i) on the date given, if given by hand delivery; (ii) within one (1) business day, if sent by overnight delivery services such as Federal Express or similar courier; (iii) on the third business day after mailing by United States registered or certified mail, return receipt requested, or (iv) on the day received for delivery by e-mail. All notices given under this Agreement shall be addressed as follows:

15.1.1 To Settlement Group Members' Counsel:

Graham S.P. Hollis
Hali M. Anderson
GrahamHollis, APC
3555 Fifth Avenue, Suite 200
San Diego, CA 92103
ghollis@grahamhollis.com
handerson@grahamhollis.com
Counsel for Phillip Carson

To Downtown San Diego:

Kevin V. DeSantis, Esq.
John E. Solis
Katherine E. Garcia, Esq.
DUNN DESANTIS WALT & KENDRICK, LLP
750 B Street, Suite 2620
San Diego, CA 92101
Telephone: (619) 573-4488
Facsimile: (619) 255-4868
KDeSantis@ddwklaw.com
JSolis@ddwklaw.com
KGarcia@ddwklaw.com

15.2 The negotiations related to this Agreement (including the negotiations related to the drafting of this Agreement and any negotiations prior to approval) will remain strictly confidential and shall not be discussed with anyone other than the PAGA Representative and Downtown San Diego, their retained attorneys, their accountants and financial or tax advisers, their retained consultants, the Court, and the mediator Honorable Steven Denton (Ret.) and his staff, unless otherwise agreed to by Settlement Group Members' Counsel and Downtown San Diego or unless otherwise ordered by the Court. Notwithstanding the other provisions of this Section, Downtown San Diego may, if necessary, disclose the Settlement in filings that Downtown San Diego is required to make with the Securities and Exchange Commission, including 10-Q and 10-K filings, or in other disclosures to investors. Upon the filing of Motion for Approval, the parties may discuss the terms of this Agreement, subject to this Section and Section 16.1.

16. MEDIA

16.1 Neither Plaintiff, nor his counsel, shall initiate any statements to the media regarding this Settlement. To the extent Settlement Group Members' Counsel communicates with the media regarding the Settlement, Settlement Group Members' Counsel agrees to limit the scope of their comments to simply instruct the media to refer to the approved settlement agreement. This Paragraph does not preclude appropriate Notice as set forth in Section 5 of this Agreement nor does this Paragraph preclude Settlement Group Members' Counsel from referencing this

Settlement in pleadings to other courts for the purposes of being appointed class counsel.

17. DOCUMENTS AND DISCOVERY

17.1 Settlement Group Members' Counsel will maintain confidentiality of documents and data produced by Downtown San Diego in the Action pursuant to any protective order entered in the case.

18. MISCELLANEOUS PROVISIONS

18.1 Construction. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or her or his counsel participated in the drafting of this Settlement.

18.2 Captions and Interpretations. Paragraph titles or captions contained in this Agreement are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision of this Agreement. Each term of this Agreement is contractual and not merely a recital.

18.3 Modification. This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties, or their counsel acting on their behalf, and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates contained in this Agreement may be modified by agreement of the Parties without Court approval if the Parties agree and cause exists for such modification. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

18.4 Integration Clause. This Agreement, the Exhibits hereto, and any other documents delivered pursuant hereto contain the entire agreement between the Parties relating to the resolution of this Action, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged in this Agreement. No rights under this Settlement may be waived except in writing and signed by the Party against whom such waiver is to be enforced.

18.5 Binding on Assigns. This Settlement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

18.6 Settlement Group Members' Counsel Signatories. It is agreed that because the Settlement Group Members are so numerous, it is impossible or impractical to have each Settlement Group Member execute this Settlement Agreement. The Notice provided in accordance with Section 5 of this Agreement will provide all Settlement Group Members with Notice and summary of the Settlement, and will advise all Settlement Group Members of the binding nature of the release. Notice shall have the same force and effect as if this Settlement were executed by each Settlement Group Member.

18.7 Counterparts. This Agreement may be executed by facsimile signature and in any number of counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one and the same Agreement, which shall be binding upon and effective as to all Parties.

18.8 Applicable Law. This Agreement shall be governed by California law without regard to its choice of law or conflicts of law principles or provisions.

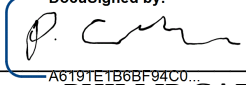
18.9 The Court shall retain jurisdiction to enforce the settlement pursuant to California Code of Civil Procedure ("CCP") § 664.6.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, Plaintiff and Defendant and their respective undersigned counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Dated: 12/3/2021

PLAINTIFF PHILLIP CARSON, in his capacity as
private attorneys general pursuant to the California
Labor Code Private Attorneys General Act

By: 
A6191E1B6BF94C0...
PHILLIP CARSON

Dated:

DEFENDANT Downtown San Diego

By: _____
DEFENDANT DOWNTOWN SAN
DIEGO PARTNERSHIP CLEAN AND
SAFE

IN WITNESS WHEREOF, Plaintiff and Defendant and their respective undersigned counsel have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Dated:

PLAINTIFF PHILLIP CARSON, in his capacity as
private attorneys general pursuant to the California
Labor Code Private Attorneys General Act

By: _____
PHILLIP CARSON

Dated: 12/15/21

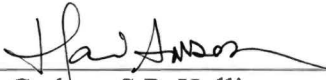
DEFENDANT Downtown San Diego

By: Elizabeth Brennan
President + CEO
DEFENDANT DOWNTOWN SAN
DIEGO PARTNERSHIP CLEAN AND
SAFE

**APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFF
AND AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF
THE SETTLEMENT GROUP MEMBER:**

Dated: December 3, 2021

GRAHAMHOLLIS, APC

By: 
Graham S.P. Hollis
Hali M. Anderson
Counsel for Plaintiff Carson and
Settlement Group members

APPROVED AS TO FORM AND CONTENT

Dated: December 16, 2021

DUNN DESANTIS WALT & KENDRICK, LLP

By: 
Kevin V. DeSantis
John E. Solis
Katherine E. Garcia
Counsel for Defendant Downtown
San Diego Partnership Clean and Safe