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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

TSCHERA ECHEVERRIA, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

TRITON GLOBAL SERVICES, INC., a
California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. RG20068526

[Assigned for all purposes to the Hon. Evelio
Grillo, Dept. 21]

**STIPULATION OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AND RELEASE**

This Stipulation of Settlement and Release (“Settlement Agreement”) is made by and between Plaintiff TSCHERA ECHEVERRIA (“Plaintiff”), on behalf of himself, his agents, representatives, assigns, heirs, executors, beneficiaries, trustees, and the “Settlement Class” defined below; and Defendant TRITON GLOBAL SERVICES, INC., on behalf of itself, its parents, subsidiaries, agents, affiliates, directors, officers, employees, and attorneys (collectively, “Defendant”). Defendant, Plaintiff, and the Settlement Class are referred to herein as the “Parties.” This Settlement Agreement is intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to the terms and conditions set forth in this Settlement Agreement. This Settlement Agreement provides for the settlement of claims on behalf of the Settlement Class, as described further herein. Upon final approval of this Settlement Agreement by the Court and full payment of the Gross Settlement Amount, judgment shall be entered in the instant action.

I. THE INSTANT ACTION

Section 1.1 Background and Procedural History

On May 19, 2020, pursuant to California Private Attorney General Act, Labor Code sections 2698 et seq. (“PAGA”), Plaintiff sent a letter to the California Labor and Workforce Development Agency (“LWDA”) and to Defendant notifying them of the alleged Labor Code violations at issue in this case. On July 22, 2020, Plaintiff initiated this lawsuit by filing a class action complaint against Defendant in Alameda County Superior Court, Case No. RG20068526 (the “Complaint”), alleging six causes of action for wage and hour violations. The Complaint alleges various wage and hour claims on behalf of Plaintiff and other current and former employees of Defendant, including: (1) violation of *Labor Code* § 226 penalties for inaccurate wage statements, (2) *Labor Code* § 226.7 for failure to allow rest periods, (3) *Labor Code* §§ 226.7 and 512 for failure to provide meal periods, (4) *Labor Code* § 2802 for failure to reimburse business expenses; (5) unfair competition (Bus. & Prof. Code § 17200 et seq.), and (6) penalties pursuant to the Private Attorney General Act of 2004 (Labor Code § 2698 et seq. (the “PAGA”).

By way of this stipulated settlement agreement, Plaintiff and Defendant also agree to provide Plaintiff with leave to amend so that Plaintiff may file a First Amended Complaint (the “Operative Complaint” or “Lawsuit”) alleging additional causes of action for failure to provide employment

1 records (*Labor Code* §§ 226, 432, 1198.5), failure to pay overtime and double time (*Labor Code* §
2 510), failure to pay minimum wage (*Labor Code* §§ 118.12, 1194, 1197, 1197.1), failure to provide
3 accurate employment records (other than wage statements) ((*Labor Code* §§ 226(a), 1174(d), 1198),
4 reporting time pay (CCR Title 8, § 1050(5)(A)), split shifts (CCR Title 8, § 1050(4)(C)), failure to
5 timely pay wages and final wages (*Labor Code* §§ 201, 202, 203, 204), and notice of paid sick time
6 and accrual (*Labor Code* § 246), as well as relief by way of joint employer liability (*Labor Code* §
7 558(a)).

8 Defendant denies all of Plaintiff's claims and allegations in this Lawsuit. Defendant expressly
9 denies any and all charges of wrongdoing or liability arising out of the acts, omissions, facts, matters,
10 transactions, or occurrences alleged, or that could have been alleged, in the Lawsuit. Defendant
11 contends that it has complied with applicable state and federal laws, including but not limited to paying
12 all wages owed to its non-exempt hourly employees, providing adequate meal breaks and making rest
13 periods available to its non-exempt hourly employees, issuing accurate, itemized wage statements, and
14 timely paying its non-exempt employees all wages owed upon termination. Defendant also denies that
15 it owes Plaintiff and/or the Settlement Class any additional wages, damages, penalties or any other
16 remedies. Defendant further denies that the asserted claims are appropriate for class action treatment
17 under *Code of Civil Procedure* § 382, except pursuant to a settlement and only for the purpose of the
18 settlement, due to the intractable management problems and issues of individualized proof that would
19 have been associated with a class action and a class-wide trial.

20 **Section 1.2 Parties' Statements and Recognition of the Benefits of the Settlement**

21 Class Counsel has investigated the facts of the Lawsuit and Plaintiff's and Settlement Class
22 Members' claims, through formal discovery, informal disclosures between the Parties, and other
23 investigations undertaken by Plaintiff's Counsel. Furthermore, the Parties engaged in extensive arms-
24 length negotiations and exchanges of data, documents and information in mediation with mediator
25 Steve Pearl, Esq., on July 9, 2021. The Parties did not settle at mediation but continued to negotiate for
26 over the course of the next year with the help of the mediator. After continued negotiations, the Parties
27 ultimately agreed to settle the claims alleged in the Lawsuit. As a result, Class Counsel concluded that
28 the Settlement Agreement is fair, reasonable and adequate and is in the best interest of the Settlement

1 Class in light of all known facts and circumstances, including most importantly Defendant's financial
2 condition, as well as the likely damages, risk of significant delay, risk that the Lawsuit would not
3 proceed on a class action basis, defenses asserted by Defendant, and numerous potential appellate
4 issues.

5 Defendant denies each and all of the claims in this Lawsuit. Nevertheless, Defendant has
6 concluded that further conduct of the Lawsuit would be protracted and expensive. Defendant,
7 therefore, has determined that it is desirable and beneficial that the Lawsuit be settled in a manner and
8 upon the terms and conditions set forth in the Settlement Agreement. Neither this Settlement
9 Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this
10 Settlement Agreement is, may be construed as, or may be used as, an admission, concession, or
11 indication by or against Defendant of any fault, wrongdoing or liability whatsoever.

12 **II. TERMS OF THE SETTLEMENT AGREEMENT**

13 IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff (for himself and the
14 Settlement Class) and Defendant, by and through their respective undersigned attorneys, that: subject
15 to final approval by the Court, the Lawsuit will be finally and fully compromised, released, resolved,
16 discharged, and settled, and will be dismissed in its entirety with prejudice, subject to the terms and
17 conditions of this Settlement Agreement, as follows:

18 **Section 2.1 Definitions**

19 As used in this Settlement Agreement, the following terms have the meanings specified below:

20 "Administrative Costs" means the estimated reasonable cost by the Settlement
21 Administrator, including for providing Notice, various efforts to locate class members, administering
22 payments to Plaintiff, Verified Settlement Class Members (defined below), to the Labor and
23 Workforce Development Agency, and to Class Counsel.

24 "Administrator" or "Settlement Administrator" means the class action administration
25 firm that will be selected by Defendant and Plaintiff to provide notice of this proposed class action
26 settlement to the Settlement Class and to perform other related functions to administer the settlement
27 contemplated by this Settlement Agreement as described herein. The Parties have solicited bids from
28 ILYM Group and Phoenix Settlement Administrators ("PSA") for administration of the Settlement

1 and have agreed that PSA will be the Settlement Administrator.

2 "Aggrieved Employees" shall mean and refer to any individuals employed by Defendant
3 in the State of California as a non-exempt security guard employee at any time from May 18, 2019,
4 through the present.

5 "Attorneys' Fees and Costs" refers to the fees and costs to be paid to Class Counsel
6 under Section 2.4(b) of this Settlement Agreement.

7 "Class Counsel" means the attorneys representing Plaintiff in this Lawsuit: Dennis S.
8 Hyun, Esq., of Hyun Legal, APC, 515 S. Figueroa St., Suite 1250, Los Angeles, California 90071 and
9 William L. Marder, Esq., of Polaris Law Group LLP, 501 San Benito Street, Suite 200, Hollister, CA
10 95023.

11 "Class Period" shall mean the period from April 6, 2016 through the date that the Court
12 grants preliminary approval of this settlement and certifies the class.

13 "Court" shall mean the California Superior Court for the County of Alameda where the
14 Lawsuit is pending, and/or any other judicial entity that assumes jurisdiction over this matter.

15 "Defendant" means Triton Global Services, Inc., and its shareholders, officers,
16 directors, and managing agents.

17 "Effective Date" or "Effective Settlement Date" means as follows: The "Effective Date"
18 of this settlement shall be the later of the time when either: (i) the Judgement of the Court granting
19 final approval of the settlement is final and no longer subject to appeal, if there are objections, or (ii)
20 30 days after Notice is provided by Plaintiff to Defendant that the Court entered the order on final
21 approval of the settlement, if there are no objections. The occurrence of the Effective Date is a
22 prerequisite to any distributions from the Settlement Fund.

23 "Employee Payroll Taxes" means the employee portion of all applicable tax
24 withholdings including, but not limited to, FICA, FUTA, and other employment related taxes and
25 withholding of federal, state, and local income taxes.

26 "Final Fairness Hearing" means the hearing to be conducted by the Court, or any other
27 court taking jurisdiction of this matter, to determine whether to finally approve the settlement of the
28 Lawsuit.

1 “Gross Settlement Amount” or “GSA” refers to Two Hundred Thousand Dollars
2 (\$200,000.00) which is non-reversionary. In no event shall Defendant be required to pay more than the
3 Gross Settlement Amount with the sole exception that Defendant shall remit their share of the
4 employer’s payroll taxes, as provided herein, in addition to the Gross Settlement Amount. The GSA
5 will be distributed in accordance with Section 2.4 of this Agreement.

6 “Individual Settlement Payment(s)” means the amounts to be paid to Verified
7 Settlement Class Members (defined below) pursuant to the terms and conditions of this Settlement
8 Agreement (defined below).

9 “Lawsuit” or “Action” means *Tschera Echeverria v. Triton Global Services, Inc. et al.*,
10 Case No. RG20068526 pending in the California Superior Court for the County of Alameda.

11 “Motion for Preliminary Approval” refers to the motion for preliminary approval of the
12 settlement described herein, including any and all supporting papers, which shall be filed by Plaintiff.

13 “Net Settlement Amount” shall be the Gross Settlement Amount after the following
14 deductions are made: (a) all costs of settlement administration performed by a settlement administrator
15 to be agreed upon by the Parties; (b) Service Award (defined below) to Plaintiff; (c) payment to the
16 Labor and Workforce Development Agency (“LWDA”); and (d) Attorney’s Fees and Costs for
17 Plaintiff’s Counsel. The Net Settlement Amount shall be available for Settlement Class members, as
18 defined below, who do not opt out of the Settlement Class.

19 “Notice of Settlement” refers to the official notice of settlement of class action,
20 materially in the form attached hereto as **Exhibit A**.

21 “Notice Period” refers to the time period of forty-five (45) days from the first mailing
22 date postmarked on the first Notice of Settlement mailed by the Settlement Administrator.

23 “Opt-Out Date” refers to the expiration of the Notice Period, by which time Settlement
24 Class Members who do not wish to be part of the settlement and who are permitted to opt out of this
25 Settlement must have timely and properly opted-out of the Settlement Class as described herein.

26 “Order Granting Preliminary Approval” refers to the Court order or statement of
27 decision granting preliminary approval to this Settlement Agreement.

28 “Order of Final Approval” and “Final Approval” mean an order that finally and

1 unconditionally grants certification of the Settlement Class for settlement purposes only, authorizes
2 payments to the Settlement Administrator, Verified Settlement Class Members, Plaintiff, the LWDA,
3 and Class Counsel as provided in this Agreement, and fully and finally extinguishes the Released
4 Claims of the Verified Settlement Class as set forth herein, which the Parties shall submit in a mutually
5 agreed upon form.

6 "PAGA Payment" means the Twenty Thousand Dollars (\$20,000.00) allocated for the
7 settlement and full release of any and all claims for civil penalties that could have been made in this
8 Action by Plaintiff and/or any of the Settlement Class Members under the California Private Attorney
9 General Act ("PAGA"), Cal. Labor Code § 2698, *et seq.*, 75% of which (\$15,000.00) will be
10 distributed to the LWDA and 25% (\$5,000.00) will be distributed to Verified Settlement Class
11 Members.

12 "PAGA Period" means at any time from May 18, 2019, through the date that the Court
13 grants preliminary approval of this settlement.

14 "Plaintiff" means Plaintiff Tschera Echeverria.

15 "Released Claims" means the claims released pursuant to Section 2.6 of this Settlement
16 Agreement.

17 "Released Parties" means Defendant, including each of its past, present and future
18 agents, employees, servants, officers, directors, partners, trustees, representatives, attorneys, parents,
19 subsidiaries, related companies/corporations and/or partnerships, divisions, assigns, predecessors,
20 successors, insurers, consultants, service providers, joint venturers, joint employers, co-employers,
21 dual employers, alleged joint employers, alleged co-employers, alleged dual employers, affiliates,
22 alter-egos, and affiliated organizations, and all of their respective past, present and future employees,
23 directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns.

24 "Service Award" means a Court-approved sum to be paid to the Plaintiff in accordance
25 with Section 2.4(c).

26 "Settlement" means the disposition of the Action pursuant to this Agreement.

27 "Settlement Agreement" refers to this Joint Stipulation of Settlement and Release.

28 "Settlement Class" means all current and former non-exempt hourly paid employees of

1 Triton Global Services, Inc. who were employed in California to perform security guard services at any
2 time between April 6, 2016 through the date that the Court grants preliminary approval of this
3 settlement and certifies the class. Defendant represents there were 1,128 putative class members as of
4 February 2023.

5 “Settlement Class Member(s)” means the individuals in the Settlement Class.

6 “Verified Settlement Class” means Plaintiff and all Settlement Class Members who do
7 not timely opt-out/request for exclusion from the Settlement pursuant to Section 2.7 of this Settlement
8 Agreement.

9 “Verified Settlement Class Member(s)” means the individual in the Verified Settlement
10 Class.

11 **Section 2.2 Settlement of the Lawsuit**

12 It is agreed by and among the Plaintiff, the Verified Settlement Class Members and Defendant
13 that the Lawsuit, including any and all allegations in the Operative Complaint and any and all claims,
14 allegations, causes of action, requests for damages, or remedies sought in the Operative Complaint, or
15 that could have been alleged based on the pleadings, shall be settled, compromised and released as
16 between the Plaintiff, the Verified Settlement Class Members and Defendant, subject to the terms and
17 conditions set forth in this Settlement Agreement and the approval of the Court, including through any
18 Court-appointed referee or agent of the Court or other judicial entity with jurisdiction over this matter.
19 As part of the motion for preliminary approval, the Parties will submit a stipulation and proposed order
20 to the Court which, if approved, shall replace Plaintiff’s Operative Complaint. Plaintiff will provide
21 Defendant with drafts of the motion for preliminary approval and supporting papers, and the stipulation
22 before filing mutually-agreeable documents with the Court.

23 **Section 2.3 Conditional Certification of the Settlement Class for Settlement Purposes Only**

24 (a) For settlement purposes only, the Parties stipulate to conditional certification of the
25 Settlement Class.

26 (b) The Parties stipulate that Tschera Echeverria shall be appointed as Class
27 Representative.

28 (c) The Parties stipulate that Dennis S. Hyun, Esq., of Hyun Legal, APC and William

1 L. Marder, Esq., of Polaris Law Group LLP shall be appointed as Class Counsel.

2 (d) The conditional certification of the Settlement Class and appointment of Class
3 Counsel and Class Representative by the Court shall be binding only with respect to the Settlement of
4 this Action. In the event that this Settlement Agreement is terminated pursuant to its terms or the
5 Settlement is not approved by the Court for any reason, the certification of the Settlement Class shall
6 be vacated, the Action shall proceed as though the Settlement Class had never been certified, any
7 payments of the GSA shall be returned to Defendant pursuant to paragraph 2.16(b) below, and this
8 Settlement Agreement shall be of no force or effect.

9 **Section 2.4 Gross Settlement Amount Distribution**

10 (a) Gross Settlement Amount

11 In consideration for settlement of the Action and the release of all Released Claims of
12 the Verified Settlement Class Members, including, Plaintiff, Defendant agree to pay the sum of Two
13 Hundred Thousand Dollars (\$200,000.00) ("Gross Settlement Amount") for Administrative Costs,
14 Service Award, Individual Settlement Payments, Attorneys' Fees and Costs, Employee Payroll Taxes,
15 and the PAGA Payment in connection with the Settlement Class Members' claims under PAGA. The
16 Gross Settlement Amount is to be allocated to the Settlement Administrator, Class Counsel, Plaintiff,
17 Verified Settlement Class Members, and the LWDA as described herein. The Gross Settlement
18 Amount is the maximum total amount Defendant are required to pay for any and all purposes under
19 this Settlement Agreement, and in connection with the termination of this Lawsuit, except that
20 Defendant's share of payroll taxes and other required withholdings from individual settlement
21 payments, paid as wages, including, but not limited to, FICA and FUTA contributions, shall be paid
22 separately by Defendant and not from the Gross Settlement Amount.

23 (b) Attorneys' Fees and Costs.

24 (1) Class Counsel will apply for an award of attorneys' fees in an amount up to
25 Sixty-Six Thousand Six Hundred and Sixty-Six Dollars and Sixty -Six Cents (\$66,666.66), which is
26 one-third (1/3) of the Gross Settlement Amount and actual documented costs not to exceed Thirty
27 Thousand Dollars (\$30,000.00) subject to approval by the Court, and will compensate Class Counsel
28 for the work already performed in the Action and the work remaining to be performed in documenting

1 the Settlement, securing Court approval of the Settlement, working with the Settlement Administrator
2 to administer the Settlement, obtaining dismissal of the Action with prejudice, and defending against
3 any appeals, as well as all associated expenses. Any remaining balance of these actual costs shall be
4 added to the Net Settlement Amount. Defendant does not object to Plaintiff's Counsel's application for
5 fees up to Sixty-Six Thousand Six Hundred and Sixty-Six Dollars and Sixty-Six Cents (\$66,666.66)
6 and actual documented costs not to exceed Thirty Thousand Dollars (\$30,000.00).

7 (2) Class Counsel, Plaintiff, and Verified Settlement Class Members, will not apply
8 to the Court for any payment of Attorneys' Fees and Costs that are in addition to or in excess of the
9 foregoing. The Parties agree that, over and above the Court-approved Attorneys' Fees and Costs
10 awarded in this Lawsuit under this Settlement Agreement, each of the Parties, including all Verified
11 Settlement Class Members, shall bear their own fees and costs, including, but not limited to, those
12 related to the investigation, filing, prosecution, or settlement of the Lawsuit; the negotiation, execution,
13 or implementation of this Settlement Agreement; and/or the process of obtaining, administering, or
14 challenging a Certification Order and/or Final Approval.

15 (3) In the event the Court denies, modifies, or reduces Class Counsel's request for
16 Attorneys' Fees and Costs, then Plaintiff, Class Counsel, and the Verified Settlement Class Members
17 may not seek modification or cancellation of this Agreement and will not seek, request, or demand an
18 increase in the Gross Settlement Amount. If Plaintiff's Counsel's Attorney's Fees and Costs are
19 reduced, the difference between the amounts set forth in this Agreement and the reduced amounts
20 awarded will be re-allocated to the Net Settlement Amount.

21 (4) If Class Counsel appeals the Court's ruling on their application for Attorneys'
22 Fees and Costs, the ruling of the appellate court (regardless of its substance) shall not constitute a
23 material alteration of a term of this Settlement Agreement.

24 (5) All claims for Attorneys' Fees, Costs or expenses that Class Counsel, Plaintiff,
25 and the Settlement Class Members may possess against Defendant have been compromised, released
26 and resolved in this Settlement Agreement and shall not be affected by any appeal that Class Counsel
27 may file.

28 (6) The Administrator, within fifteen (15) calendar days of full funding of the Gross

Settlement Amount, shall deliver any awards of Attorneys' Fees and Costs to Class Counsel.

(c) Plaintiff's Service Award

(1) In addition to the Individual Settlement Payment determined to be due to the Plaintiff as a Verified Settlement Class Member under this Settlement Agreement, Class Counsel and Plaintiff may petition the Court for a Service Award for Plaintiff, in the total amount of no more than Seven Thousand Five Hundred Dollars (\$7,500.00). Any such petition shall be filed concurrently with Class Counsel's application for Attorneys' Fees and Costs. Any Service Award approved by the Court in conjunction with the Settlement shall be paid solely from the Gross Settlement Amount and shall not reduce the Net Settlement Amount payable to the Verified Settlement Class Members. Defendant does not object to a Service Award to Plaintiff not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00).

(2) The Service Award shall be distributed by the Settlement Administrator in accordance with Section 2.11 of this Settlement Agreement and shall be reported by the Settlement Administrator to state and federal taxing authorities as non-wage income on IRS Form 1099. Plaintiff will be solely responsible for correctly characterizing his Service Award for tax purposes and is solely responsible for paying any taxes owing on the Service Award. Plaintiff agrees to assume responsibility of remitting to the Internal Revenue Service and any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendant or the Settlement Administrator from his Service Award. In addition, Plaintiff shall hold Defendant harmless and indemnify and defend Defendant and Released Parties for all taxes, interest, penalties, and costs incurred by Defendant or the Released Parties by any reason of any claims relating to the non-withholding of taxes from the Service Award.

(3) In the event that the Court denies, modifies, or reduces Plaintiff's request for a Service Award, Plaintiff may not seek modification or cancellation of this Settlement Agreement and will not seek, request, or demand an increase in the Settlement Amount. If Plaintiff's Service Award is reduced by the Court, the amount set forth in this Agreement and the reduced amount awarded will be re-allocated to the Net Settlement Amount.

(4) Plaintiff shall receive the Service Award payment and any other payments under this Settlement Agreement within fifteen (15) calendar days of full funding of the Gross Settlement

Amount. Such Service Award is also contingent upon Plaintiff agreeing to the terms herein.

(d) Settlement Administration Expenses

(1) The Settlement Administrator shall be paid, for the costs of administration of the Settlement, an estimated fee of Fourteen Thousand Dollars (\$14,000.00). These costs include without limitation the mailing of notice, establishing a toll-free telephone number, tracking requests for exclusion, disbursement of the Gross Settlement Amount, and other duties set forth below in Section 2.5. No fewer than twenty-one (21) court days prior to the Final Approval Hearing, the Settlement Administrator shall provide the Court and all counsel for the Parties with a statement detailing these Administrative Costs, as well as a signed declaration regarding administration of settlement. The Parties agree to cooperate in the settlement administration process and to make all efforts to control and to minimize the costs and expenses incurred in the administration of this Settlement.

(e) PAGA Payment

(1) Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement Amount shall be allocated for the settlement and full release of any and all claims for civil penalties that could have been made in this Action by the Verified Settlement Class Members under PAGA, Cal. Labor Code § 2698, *et seq.* ("PAGA Payment"). Pursuant to California Labor Code § 2699(i), 75% of the PAGA Payment, Fifteen Thousand One Dollars (\$15,000.00), shall be paid to the LWDA, and 25% of the PAGA Payment, Five Thousand Dollars (\$5,000.00), shall be distributed to Aggrieved Employees based on the number of workweeks they worked during the PAGA Period, *i.e.*, the Aggrieved Employee's workweeks shall be divided by the workweeks worked by all Aggrieved Employees and then multiplied against \$5,000.00. The Administrator shall deliver payment to the LWDA within fifteen (15) calendar days full funding of the Gross Settlement Amount. Aggrieved Employees cannot opt-out of their share of the PAGA Payment. Plaintiff will provide notice to the LWDA of this settlement at the time Plaintiff files his motion for Preliminary Approval.

(f) Distributions to Verified Settlement Class Members

(1) Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula set forth herein. Settlement Class Members are not required to submit claim forms for their share of the Net Settlement Amount. Settlement checks will

1 not be sent out to any Settlement Class Members whose Notice Packets are returned as undeliverable.
2 The funds for these undeliverable Notice Packets shall be reallocated to the Net Settlement Amount.
3 Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to Verified Settlement
4 Class Members' last known mailing address within fifteen (15) calendar days after the Effective
5 Settlement Date. Any checks issued by the Settlement Administrator to Class Members will be
6 negotiable for one-hundred eighty (180) calendar days. After one-hundred eighty (180) calendar days
7 from the date of mailing, the checks shall become null and void, and any monies remaining in the
8 distribution account shall be distributed by the Settlement Administrator to Legal Aid at Work, as the
9 Residual Beneficiary pursuant to Code of Civil Procedure § 384. Legal Aid at Works' mission is to
10 provide employment law services to indigent individuals and low-wage earners. The Parties and their
11 counsel do not have any financial interest in, connection to and/or preexisting relationship with Legal
12 Aid at Work.

13 (2) Verified Settlement Class Members will receive a pro-rated share of the Net
14 Settlement Amount, less applicable withholdings, based on the total workweeks worked by the
15 Verified Settlement Class Member during the Class Period. The maximum amount that each Verified
16 Settlement Class Member is entitled to receive is determined by multiplying Net Settlement Amount
17 by a ratio that is determined by dividing a Verified Settlement Class Member's total workweeks
18 worked during the Class Period in California by the total number of workweeks worked during the
19 Class Period by all Settlement Class Members employed by Defendant as expressed in the following
20 formula:

21 Verified Settlement Class Member Payment = Net Settlement Amount multiplied
22 by Verified Settlement Class Member workweeks divided by *all* workweeks
23 worked by *all* Settlement Class Members.

24 (3) The Settlement Administrator will calculate the number of workweeks worked by
25 the Verified Settlement Class Members during the Class Period, and the amount to be paid to Verified
26 Settlement Class Members per workweek based on information provided by Defendant.

27 (4) The workweeks will be calculated by the Settlement Administrator for each
28 Settlement Class Member by using the difference between the first and last dates each Settlement Class

1 Member worked during the Class Period divided by seven; partial workweeks will be rounded up.
2 Because incomplete data for Settlement Class Members may be attributed to Settlement Class
3 Members whose employment lasted less than three weeks, any Verified Settlement Class Member with
4 incomplete data will be assumed to have worked three weeks. Defendant will provide the first and last
5 date worked by each Settlement Class Member and such data will be presumed to be correct, unless the
6 Settlement Class Member proves otherwise to the Settlement Administrator by credible written
7 evidence. All workweek disputes will be resolved and decided by the Settlement Administrator, and
8 the Settlement Administrator's decision on all workweek disputes will be final and non-appealable.

9 (5) The Settlement Administrator will calculate the estimated Individual Settlement
10 Payments prior to mailing the Notice of Settlement. The estimated Individual Settlement Payment will
11 be displayed in the Settlement Class Member's Notice of Settlement.

12 (6) Within thirty (30) calendar days of the close of the Notice Period, the Settlement
13 Administrator will provide a copy of its calculations, without any name identifying data, for
14 Defendant' counsel and Class Counsel to review before Individual Settlement Payments are made to
15 Verified Settlement Class Members. The Parties may dispute the calculations only with respect to
16 mathematical errors or an incorrect application of the above method of allocation. Such a dispute must
17 be raised in writing within seven (7) calendar days after the Settlement Administrator provides the
18 calculations in writing to Defendant and Class Counsel.

19 (g) Allocation and Taxability of Settlement Distributions.

20 (1) For tax purposes, Individual Settlement Payments will be allocated as twenty
21 percent (20%) to wages for which IRS Forms W-2 will be issued by the Settlement Administrator, and
22 eighty percent (80%) to interest and penalties for which IRS Forms 1099-MISC will be issued by the
23 Settlement Administrator. The PAGA Payments to Aggrieved Employees shall be classified as 100%
24 penalties, which shall be reported on the IRS Form 1099-MISC. Defendant's share of payroll taxes
25 and other required withholdings from the wage portion of the Individual Settlement Payments,
26 including but not limited to FICA and FUTA contributions, shall be paid separately by Defendant and
27 not out of the Gross Settlement Amount.

28 (2) Neither the terms of this Settlement Agreement nor any Individual Settlement

Payments paid to any Verified Settlement Class Members shall have any effect on the eligibility or calculation of employee benefits for any Verified Settlement Class Members. Neither this Settlement Agreement, nor any of its attachments, should be interpreted to contain or constitute representations or advice regarding any U.S. federal or state tax issue. Settlement Class Members will be specifically informed that neither Defendant nor Class Counsel make any representations regarding the tax implications of any amounts paid under this Settlement Agreement and that if any Settlement Class Member has any questions regarding those implications, they can and should consult a tax expert.

(3) The Settlement Administrator shall provide each Verified Settlement Class Member who is entitled to an Individual Settlement Payment with a W-2 form reflecting the wages and the taxes withheld from those wages and with a Form 1099 reflecting the non-wage damages and interest paid. The Settlement Administrator shall also provide each Verified Settlement Class Member who is entitled to an Individual Settlement Payment with appropriate documentation setting forth the amount of any tax or other payment withheld and employer contribution made, in accordance with state and federal tax requirements.

(4) Verified Settlement Class Members shall be solely and exclusively responsible for remitting to state and/or federal taxing authorities any other applicable taxes due and shall hold Defendant and the Released Parties harmless for any taxes, penalties, interest, liabilities, costs and expenses caused by any such taxing authority relating in any way to the Verified Settlement Class Members' tax treatment of payments made to them pursuant to this Settlement Agreement or failure to timely or properly pay any taxes owed on their respective Settlement Payments.

(5) **Circular 230 Disclosure.** Each party to this Settlement Agreement (for purposes of this section, the "Acknowledging Party"; and each party to this Settlement Agreement other than the Acknowledging Party, an "Other Party") acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written communication or disclosure between or among the parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging Party (a) has relied exclusively upon his, her, or its own, independent legal and tax advisers for advice

(including tax advice) in connection with this Settlement Agreement, (b) has not entered into this Settlement Agreement based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the Acknowledging Party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

Section 2.5 Appointment and Duties of Settlement Administrator

(a) Appointment of the Settlement Administrator

(1) Subject to the approval of the Court, the Parties will agree to the appointment of a professional class action claims administration firm. Plaintiff shall elicit bids from ILYM Group and Phoenix Settlement Administrators ("PSA"). The Parties anticipate that the Administrator fees will not exceed Fourteen Thousand Dollars (\$14,000.00). The Administrator's fees shall be paid out of the Gross Settlement Amount. Any savings shall be distributed to the Verified Settlement Class Members from the Net Settlement Fund.

(b) Duties of the Settlement Administrator: The Settlement Administrator shall be responsible for administering the settlement process, including:

(1) Finalizing and printing the Notice of Settlement attached to this Settlement Agreement as **Exhibit A**, as modified by the Court and/or by mutual agreement of the Parties.

(2) Mailing the Notice of Settlement in English and Spanish, and handling all mailings to Settlement Class Members pursuant to Section 2.9;

(3) Performing an address search and/or trace for returned or undeliverable mailings as set forth in Section 2.9(c);

(4) Recording and tracking responses to the Notice mailing by Settlement Class Members and the dates thereof (including recording the postmark date and identity of any Settlement Class Members who request exclusion or object and promptly forwarding such information to Defendant's counsel and Class Counsel using numbers instead of providing identifying information);

- (5) Establishing a toll-free telephone number for Settlement Class Members to call during business hours to ask questions regarding the Settlement;
- (6) Responding to inquiries made by the Settlement Class Members;
- (7) Calculating and mailing Individual Settlement Payments;
- (8) Settling disputes from Settlement Class Members regarding the information from Defendant on which Individual Settlement Payments are calculated with the assistance of Defendant's counsel and Class Counsel;
- (9) Posting any final judgment in the Action on any website associated with this Settlement;
- (10) Preparing and filing any required tax forms associated with the Settlement Administrator's duties hereunder; and
- (11) Other related tasks as mutually agreed to by the Parties and required by statute.
- (a) The Settlement Administrator shall keep Defendant's counsel and Class Counsel timely apprised of the performance of all Settlement Administrator responsibilities by weekly emails. All disputes relating to the Settlement Administrator's performance of its duties will be referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement until all payments and obligations contemplated by this Settlement Agreement have been fully carried out.
- (b) At least twenty-one (21) days before the Final Fairness Hearing, the Settlement Administrator shall prepare a declaration of compliance and due diligence and proof of mailing with regard to the mailing and emailing of the Notice of Settlement, and any attempts by the Settlement Administrator to locate Settlement Class Members, its receipt of timely and valid requests for exclusion, and its inability to deliver the Notice of Settlement to Settlement Class Members due to invalid addresses ("Due Diligence Declaration"), to Class Counsel and Defendant's counsel for presentation to the Court. Class Counsel shall be responsible for filing the Due Diligence Declaration with the Court. This declaration shall also include the names of any persons making requests for exclusion or otherwise opting-out of the Settlement.

Section 2.6 Release of Claims by Plaintiff and Verified Settlement Class Members

(a) Release by Plaintiff and Verified Settlement Class Members

(1) Upon full funding of the Gross Settlement Amount, Plaintiff and all Verified Settlement Class Members, including their heirs, assigns, estates and representatives, shall be deemed to fully forever, irrevocably and unconditionally release, and discharge Defendant and the Released Parties from any and all claims under state and local law arising out of the allegations made in the Operative Complaint and that reasonably arise or could have arisen out of the facts alleged in the Operative Complaint as to the Class Members, including claims for or related to alleged violation of *Labor Code* §226 (itemized wage statements); violation of *Labor Code* § 226.7 (rest breaks); violation of *Labor Code* §§ 226.7 and 512 (meal breaks); violation of *Labor Code* § 2802 (indemnification of business expenses); violation of *Bus. Prof. Code* §17200; failure to provide employment records (*Labor Code* §§ 226, 432, 1198.5); failure to pay overtime and double time (*Labor Code* § 510); failure to pay minimum wage (*Labor Code* §§ 118.12, 1194, 1197, 1197.1); failure to provide accurate employment records (other than wage statements) ((*Labor Code* §§ 226(a), 1174(d), 1198); reporting time pay (CCR Title 8, § 1050(5)(A)); split shifts (CCR Title 8, § 1050(4)(C)); failure to timely pay wages and final wages (*Labor Code* §§ 201, 202, 203, 204); notice of paid sick time and accrual (*Labor Code* § 246); and joint employer liability (*Labor Code* § 558(a)); interest, fees, costs, as well as all other claims and allegations alleged in the Operative Complaint for the period of April 6, 2016 through the Effective Date (collectively “Released Claims”). Additionally, upon full funding of the Gross Settlement Amount, Plaintiff (individually and as an agent and proxy of the LWDA) shall release Defendant and the Released Parties from any and all claims for civil penalties arising under the PAGA based on the allegations and claims alleged in the Operative Complaint during the PAGA Period.

(2) The Parties intend and agree that this Settlement Agreement shall be binding on all Verified Settlement Class Members, whether or not they actually receive a payment pursuant to this Settlement Agreement. This Settlement Agreement shall constitute, and may be pleaded as, a complete and total defense to any Released Claims raised in the future.

(3) Plaintiff promises not to file a lawsuit in any court alleging any Released Claims, or to participate as a party or a class member in any administrative or other legal proceedings, in any forum, against Defendant or the Released Parties, for any claims released under this Settlement

1 Agreement. In consideration for the promises made by Defendant in this Settlement Agreement,
2 Plaintiff agrees never to institute any suit, complaint, proceeding, grievance, or action of any kind at
3 law, in equity, or otherwise in any court of the United States, or of any state or municipality, or with
4 any administrative agency, arbitration or other legal forum, against Defendant or the Released Parties
5 for any claim included in the Released Claims. Plaintiff also agrees that he will not join, participate in,
6 or consent to opt-in to any actions alleging that he similarly situated to any other employee with
7 respect to any such Released Claims, and that each will elect to opt-out of any such actions against
8 Defendant or the Released Parties of which he or she is made a member or party. If Plaintiff is joined
9 in any class or collective lawsuits for any Released Claims, he will receive no further compensation of
10 any kind for such released claim or claims.

11 (b) General Release by Plaintiff

12 (1) In consideration for, inter alia, Defendant's agreement to pay the Service Award,
13 Plaintiff, by signing this Settlement Agreement, hereby releases and discharges the Released Parties for
14 any and all injuries, demands, losses, damages, costs, loss of service, expenses, compensation, claims,
15 suits, causes of action, attorneys' fees, obligations or liabilities of any nature, type or description,
16 whether known or unknown, suspected or unsuspected, whether administrative, civil or criminal,
17 whether arising from statute, common law, regulation or other legal source, that relate to, are
18 connected to, or arise out of any and all of the following: (1) his employment, (2) his dealings or
19 interactions with the Released Parties, (3) the claims asserted in the Lawsuit (including Plaintiff's
20 individual PAGA claims¹), (4) any claim that could have been asserted in the Lawsuit. In this regard,
21 Plaintiff expressly waives and relinquishes to the fullest extent possible the provisions, rights and
22 benefits of California Civil Code section 1542. Section 1542 provides:

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

28 ¹ As recognized by the U.S. Supreme Court in *Viking River Cruises, Inc. v. Moriana*, (2022) 142 S. Ct. 1906, 1925.

DEBTOR OR RELEASED PARTY.

Plaintiff further covenants not to initiate any court proceeding or administrative action, or to make any claim whatsoever, against the Released Parties relating in any manner to any claims she releases herein, to the full extent such a covenant is enforceable at law. This covenant shall not be deemed to apply or be construed to apply to any administrative proceeding or government enforcement action the future participation in which is not waivable by an individual as a matter of governing law.

Section 2.7 Opt-Out/Request for Exclusion Procedure

(a) Settlement Class Members, except Plaintiff who shall not be permitted to opt-out, shall be entitled to "opt out" of this Settlement Agreement. The Notice Materials shall provide instructions to Settlement Class Members who wish to "opt out." To be valid, an individual requesting exclusion must timely submit a written request for exclusion containing all of the information required in the Class Notice for excluding oneself from the settlement. Any such request must be returned by U.S. Mail to the Settlement Administrator at the specified address and must be postmarked no later than the last day of the Notice Period. If the Settlement Class Member submits a request for exclusion that is not timely and/or valid then the Settlement Administrator will notify such Settlement Class Member that the request is untimely or invalid. Any disputes regarding the timeliness, validity or effectiveness of a request for exclusion shall be decided by the Administrator consistent with the terms of this Settlement Agreement, with the Parties' input, if appropriate. The date of the postmark on the mailing envelope for any request for exclusion shall be the exclusive means used to determine whether the request for exclusion has been timely submitted.

(b) Any Settlement Class Member who does not properly and timely submit a request for exclusion in the manner and by the deadline specified above in Section 2.7 will be a Verified Settlement Class Member who is barred from opting out of the Settlement and is bound by all terms and conditions of the Settlement and this Settlement Agreement, including the releases of claims pursuant to Section 2.6 of this Settlement Agreement, if the Settlement is approved by the Court, and will be bound by any Final Approval Order, regardless of whether he or she has objected to the Settlement.

(c) A Settlement Class Member who properly and timely submits a request for

1 exclusion in the manner and by the deadline specified above in Section 2.7 will not be bound the
2 Settlement Agreement; will be barred from participating in or objecting to the Settlement; will not
3 receive any benefit from the Settlement; will remain free to contest any claim as to that individual that
4 would have been barred by this Settlement Agreement; and nothing in this Settlement or Settlement
5 Agreement will constitute or be construed as a waiver of any defense Defendant or the Released
6 Parties have or could have asserted against such a claim.

7 **Section 2.8 Procedures for Objecting to the Settlement**

8 (a) The Class Notice shall provide that Verified Settlement Class Members and
9 persons purporting to act on behalf of Verified Settlement Class Members who wish to object to the
10 Settlement Agreement must mail to the Settlement Administrator a written statement objecting to the
11 Settlement Agreement. Such objection should be postmarked no later than the last day of the Notice
12 Period. The Settlement Administrator shall send the objection to the Parties' counsel within two (2)
13 business days of receipt. Plaintiff's counsel shall then file the objection with the Court. Settlement
14 Class Members who opt-out may not file and serve an objection or otherwise object to this Settlement
15 Agreement. The postmark date of the filing and service of an objection shall be deemed the exclusive
16 means for determining that the objection is timely. An objection must be signed and state the Verified
17 Settlement Class Member's name, current address and telephone number, and the basis for the
18 objection. The notice of objection must be signed by the Verified Settlement Class Member.

19 (b) Any Verified Settlement Class Member who fails to file and serve a timely and
20 complete objection in the manner specified above in Section 2.8(a) can still be heard at the Final
21 Approval Hearing (whether individually or through counsel) or object to the Settlement at the
22 discretion of the Court.

23 (c) If a Settlement Class Member timely submits both an objection and a request for
24 exclusion ("opt out" under Section 2.7), the request for exclusion shall supersede the objection, and the
25 objection shall therefore be waived.

26 (d) Counsel for the Parties shall file any responses to any objections at least seven (7)
27 calendar days before the Final Approval Hearing, or within five (5) business days of receipt of the
28 objection, whichever is later.

(e) Defendant shall not be responsible for the fees, costs, or expenses incurred by Plaintiff, Class Counsel, or the Verified Settlement Class Members arising from or related to Verified Settlement Class Members who submit objections or otherwise purport to object to the Settlement Agreement or related to any appeals thereof.

Section 2.9 Preparation and Mailing of Notice to the Class

(a) Within ten (10) calendar days of entry of the Order Granting Preliminary Approval of Settlement, but subject to the Settlement Administrator providing adequate and contractual assurances with respect to confidentiality and data security, Defendant shall provide the Settlement Administrator with the following information for the Settlement Class Members in the form of an Excel spreadsheet or similar sortable electronic format: names, address, telephone number, social security number, and the first and last date that each Settlement Class Member worked for Defendant during the Class Period. Class Counsel and Plaintiff will not be provided identifying or contact information or social security numbers for any Settlement Class Members in connection with this Settlement or Settlement Agreement. The data provided to the Administrator will remain confidential and will not be disclosed to anyone, except as required to applicable tax authorities, or pursuant to the express written consent of Defendant, or by order of the Court. The data provided under this Section 2.9(a) shall be used only for the purpose of administering this Settlement.

(b) The Notice of Class Action Settlement and Hearing Date for Court Approval ("Notice of Settlement"), materially in the form attached hereto as **Exhibit A** and as approved by the Court, shall be sent by the Settlement Administrator to the Settlement Class Members, by First Class Mail (in English and Spanish) to those addresses provided as soon as practicable but in any event within fifteen (15) calendar days after receipt of their contact information from Defendant. The Notice of Settlement shall set forth a brief description of the Action, provide the definition of the Settlement Class, inform Settlement Class Members of the nature and scope of the settlement and release of claims, set forth the requested Attorneys' Fees and Costs, disclose the Service Award to Plaintiff, inform Settlement Class Members of their opportunity to be heard at the Final Fairness Hearing, inform Settlement Class Members of their right to submit an objection to any term of the settlement, to submit a claim, and/or to request exclusion from or to opt-out of the settlement and the procedures for

1 doing so, and explain the *res judicata* effects of not doing so. The Notice of Settlement will also
2 include or attach the respective Settlement Class Member's workweeks during the Class Period,
3 estimated Individual Settlement Payment, and instruct the Settlement Class Member to submit any
4 disputes to the Settlement Administrator within forty-five (45) calendar days from the date the Notice
5 of Settlement was mailed to Settlement Class Members. The Settlement Administrator will consult
6 Class Counsel and Counsel for Defendant regarding any such dispute(s) but will remain the ultimate
7 arbiter and make the final decision regarding any such dispute(s). Also, the Notice of Settlement will
8 set forth contact numbers for Class Counsel and counsel for Defendant but will direct Settlement Class
9 Members to call the toll-free number established by the Settlement Administrator to answer any
10 questions that Settlement Class Members may have.

11 (c) The Settlement Administrator will attempt to locate any Settlement Class
12 Member whose Notice of Settlement is returned by the Post Office by performing a National Change
13 of Address (NCOA) search, and if needed, by conducting one skip trace search regarding any returned
14 Notice of Settlement.

15 (d) If an envelope or email has not been returned within twenty-one (21) days of the
16 mailing, it shall be conclusively presumed that the Settlement Class Member received the Notice of
17 Settlement.

18 **Section 2.10 Final Fairness Hearing**

19 (a) The Parties will request the Court to conduct a Fairness Hearing on or about the
20 date set forth in the Order of Preliminary Approval to determine if the Settlement is fair, reasonable,
21 and adequate, and if so, to enter a final order and judgment granting Final Approval of Settlement,
22 which will (1) approve the Settlement, adjudging the terms thereof to be fair, reasonable and adequate,
23 and directing consummation of its terms and provisions; (2) approve in whole or in part Class
24 Counsel's application for an award of Attorneys' Fees and Costs; and (3) approve in whole or in part
25 the Plaintiff's Service Award. Plaintiff will provide notice to the LWDA of the final order and
26 judgment in accordance with California Labor Code section 2699(1)(3).

27 **Section 2.11 Funding the Gross Settlement Amount and Distribution of Payments**

28 (a) Defendant shall deposit the following with the Settlement Administrator: a first

installment payment of Ten Thousand Nine Hundred and Thirty Seven Dollars and Fifty Cents (\$10,937.50) within ten (10) calendar days after entry of the Order of Preliminary Approval; followed by quarterly installments of Ten Thousand Nine Hundred and Thirty Seven Dollars and Fifty Cents (\$10,937.50) for seven (7) quarters, commencing on the ninetieth day after the payment of the first installment and payment of Fourteen Thousand and Sixty Two Dollars and Fifty Cents (\$14,062.50) for eight (8) quarters, until paid in full. Within the later of ten (10) business days of written notification from the Settlement Administrator of the names of any Settlement Class Members who have opted out of the Settlement Class or the funding of fifty percent (50%) of the Gross Settlement Amount, Defendant shall pay the employer's portion of all applicable tax withholdings including, but not limited to, FICA, FUTA, and other employment related taxes and withholding of federal, state, and local income taxes.

(b) The Settlement Administrator, within fifteen (15) calendar days of Defendant's full funding of the Gross Settlement Amount and Defendant's share of employer-side payroll taxes shall mail the Individual Settlement Payments to Verified Settlement Class Members, deliver any awards of Attorneys' Fees and Costs to Class Counsel, the Service Award to Plaintiff, and the portion of the PAGA Payment due to the LWDA. The approval and denial of an Individual Settlement Payment to any Verified Settlement Class Member under the terms of this Settlement Agreement will be conclusive and binding, subject to the dispute resolution provisions of this Settlement Agreement as set forth in Section 2.17. All payments called for under Section 2.11 shall be made solely from the Gross Settlement Amount. Defendant's share of the payroll taxes shall be paid in addition to the Gross Settlement Amount.

Section 2.12 Duties of the Parties Prior to Court Approval

(a) Once finalized, the Parties shall promptly submit this Settlement Agreement to the Court for preliminary approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Settlement Agreement, Plaintiff will prepare, send to Defendant's counsel for comment, and then when it is mutually-agreeable, file a Motion for Preliminary Approval seeking the following:

(1) Approval of the proposed settlement as fair, reasonable, and adequate as to

Settlement Class Members;

(2) Approval as to form and content of the proposed Notice of Settlement;

(3) Approval of the Gross Settlement Amount's distribution;

(4) Directing the Settlement Administrator to mail the Notice of Settlement by First

Class Mail to Settlement Class Members;

(5) Conditionally certifying the Settlement Class for settlement purposes only;

(6) Appointing Class Counsel, Plaintiff as Class Representative, and PSA as

Settlement Administrator;

(7) Preliminarily approving this Settlement Agreement; and

(8) Scheduling a Final Fairness Hearing on the question of whether the proposed settlement should be finally approved.

(b) Prior to the Final Fairness Hearing, Class Counsel (in conjunction with Defendant' counsel) will submit a proposed final order:

(1) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(2) Approving Class Counsel's application for an award of Attorneys' Fees and Costs in whole or in part. These amounts for Attorneys' Fees and Costs shall be paid from the Gross Settlement Amount; and

(3) Seeking judgment to be entered in this Action that dismisses the Action with prejudice.

Section 2.13 Communications

(a) Except for disclosures that are authorized by Defendant, that are required by law for Defendant to make, or that are necessary to prepare the Motion for Preliminary Approval, the terms of this Settlement shall remain confidential until they are presented to the Court in connection with the Motion for Preliminary Approval.

(b) Following preliminary approval, the Parties and their counsel will direct inquiries from Settlement Class Members about this Settlement to the Settlement Administrator to ensure consistent and accurate communication with Settlement Class Members. Plaintiff's counsel, however,

1 can communicate with Settlement Class Members in connection with their duties as certified class
2 counsel. The Parties will make no efforts to solicit requests for exclusion or opt-outs or objections to
3 this Settlement. Notwithstanding anything to the contrary in this Section 2.13 or elsewhere in this
4 Settlement Agreement, Defendant and Class Counsel shall be permitted to disclose the Settlement in
5 order to comply with any state or federal law. Nothing in this Section 2.13 shall limit Defendant from
6 communicating with its counsel regarding this Settlement Agreement or Plaintiff from communicating
7 with Class Counsel regarding this Settlement Agreement.

8 (c) Defendant, Defendant's Counsel, Plaintiff, and Plaintiff's Counsel agree to limit
9 public comment on this settlement, the case, and the claims to stating that the matter has been resolved
10 to the satisfaction of both parties. Neither side will initiate public comment. Defendant agrees to
11 provide a neutral reference, stating nothing more than Plaintiff's dates of employment and position(s)
12 held, in response to any inquiry from prospective employers regarding Plaintiff. Nothing in this
13 Section 2.13 shall be construed as prohibiting the Parties or their counsel from responding to an inquiry
14 issued under court order, subpoena or other request issued under the law. Nothing in this Section 2.13
15 shall preclude Plaintiff's Counsel from referencing this Settlement in pleadings to other courts for the
16 purposes of being appointed class counsel.

17 **Section 2.14 Continuing Jurisdiction of the Court**

18 (a) The Parties agree that the Court shall retain jurisdiction over the Parties, and over
19 this Settlement Agreement, in order to: (1) monitor and enforce compliance with this Settlement
20 Agreement, Order of Final Approval and/or any related order of this Court; and/or (2) resolve any
21 disputes over this Settlement Agreement or the administration of the benefits of this Settlement
22 Agreement, including disputes over entitlement to payments sought by Class Counsel. The Parties
23 agree that if an action is brought to enforce this Agreement, the prevailing party shall be entitled to
24 its/his reasonable attorneys' fees and costs.

25 **Section 2.15 Voiding the Settlement Agreement**

26 (a) If any of the conditions set forth in the preceding paragraphs are not met and
27 materially satisfied, this Settlement Agreement shall, at the option of either party, be ineffective, void,
28 and of no further force and effect and shall not be used nor be admissible in any subsequent proceeding

1 either in this Court or in any other court or forum. The Parties may exercise their option, only on the
2 terms provided herein, to void this settlement by giving notice, in writing, to the other party and to the
3 Court at any time prior to the Effective Date. In such an event, (1) nothing in this Settlement
4 Agreement shall be construed as a determination, admission, or concession of any issue in the Action,
5 and nothing in this Settlement Agreement may be offered into evidence in any trial on the merits of the
6 claims asserted in the complaints filed in the Action or in any subsequent pleading; (2) the Parties
7 expressly reserve their rights with respect to the prosecution and defense of the Action as if this
8 Settlement Agreement never existed; and (3) the Party or Parties who exercised the option to void the
9 Settlement Agreement shall be responsible for any settlement administration costs incurred by the
10 Settlement Administrator through that date, provided that such costs shall be recoverable in the event
11 that the Party who incurred them is a prevailing party in the Action.

12 (b) In the event that the Court does not execute and file an Order of Final Approval;
13 that any such Order of Final Approval does not become final for any reason, or is modified in any
14 material respect (other than a modification, reduction, or denial of Class Counsel's application for
15 Attorneys' Fees and Costs or a modification, reduction, or denial of the application for Plaintiff's
16 Service Award); that the Effective Date does not occur; or that any of the conditions set forth above do
17 not occur, this Settlement Agreement shall be deemed null and void and shall be of no force or effect
18 whatsoever, and shall not be referred to or utilized for any purpose whatsoever. Any settlement funds
19 paid by Defendant shall be returned to Defendant within five (5) business days after the Court issues an
20 order denying final approval.

21 **Section 2.17 Parties' Authority**

22 (a) The signatories hereto hereby represent that they are fully authorized to enter into
23 this Settlement Agreement and to bind the Parties to the terms and conditions of the Settlement
24 Agreement.

25 **Section 2.18 Mutual Full Cooperation**

26 (a) The Parties agree to fully cooperate with each other to accomplish the terms of
27 this Settlement Agreement, including without limitation to execute such documents and to take such
28 other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The

Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate the terms of this Settlement Agreement. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the Court's Final Approval of this Settlement Agreement. Class Counsel will also notify counsel for Defendant if Class Counsel are subpoenaed or receive any other request for documents or information regarding any other action filed or potential action against the Released Parties that covers or includes any Settlement Class Members.

Section 2.19 No Prior Assignments

(a) 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 rights herein released and discharged except as set forth herein.

Section 2.20 No Admission

(a) Nothing contained herein, nor the negotiation, consummation or performance of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant and/or any of the Released Parties, and they expressly deny liability or wrongdoing. Defendant further deny, for any purpose other than settling this Lawsuit, that this Lawsuit is appropriate for class, or representative treatment. This Settlement Agreement is not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of this or similar claims for class action certification or administration other than for the purposes of administering this Settlement Agreement. Each of the Parties has entered into this Settlement Agreement with the sole purpose and intention to avoid further disputes and litigation with the attendant inconvenience and expenses. In the event this Settlement Agreement is not approved by the Court or otherwise does not become final, Defendant do not waive any defenses or rights, including without limitation, that this case is not suitable for class treatment, and the Parties agree that the Settlement Class will be decertified. This Settlement Agreement is a settlement document and shall, pursuant to Federal Rule of Evidence 408 and any and all analogous state laws, be inadmissible as

evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce this Settlement Agreement.

(b) Whether or not the Settlement is finally approved, neither the Settlement Agreement, nor any of its terms, nor any document, statement, proceeding or conduct related to this Settlement Agreement including without limitation the motions for preliminary and final approval of the Settlement and any documents submitted in support of such motions, nor any reports or accounts thereof, shall in any event be disclosed, referred to or offered or received in evidence against any of the Parties, in any further proceedings in this Action, or any other civil, criminal or administrative action or proceeding except for purposes of settling this Action or enforcing the Released Claims contained herein pursuant to the terms of this Settlement Agreement.

Section 2.21 Notices

(a) Unless otherwise specifically provided herein, all notices, demands, or other communications shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Settlement Class:

William L. Marder, Esq. (SBN 170131)
POLARIS LAW GROUP LLP
501 San Benito Street, Suite 200
Hollister, CA 95023

Dennis S. Hyun (SBN 224240)
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071

To Defendant:

Michael I. Kim
CKB VIENNA, LLP
9531 Pittsburgh Avenue
Rancho Cucamonga, CA 91730

Section 2.22 Construction

(a) The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that

1 this Settlement Agreement shall not be construed in favor of or against any party by reason of the
2 extent to which any party or his, her or its counsel participated in the drafting of this Settlement
3 Agreement.

4 **Section 2.23 Captions and Interpretations**

5 (a) Paragraph titles or captions contained herein are inserted as a matter of
6 convenience and for reference, and in no way define, limit, extend, or describe the scope of this
7 Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual
8 and not merely a recital.

9 **Section 2.24 Modification**

10 (a) This Settlement Agreement may not be changed, altered, or modified, except in
11 writing and signed by counsel for Defendant and the Plaintiff. This Settlement Agreement may not be
12 discharged except by performance in accordance with its terms or by a writing signed by the Parties
13 hereto.

14 **Section 2.25 Integration Clause**

15 (a) This Settlement Agreement contains the entire agreement between the Parties
16 relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous
17 agreements, understandings, representations, and statements relating to this Settlement and the
18 transaction contemplated hereby, whether oral or written and whether by a party or such party's legal
19 counsel, are merged herein. No rights hereunder may be waived except in writing.

20 **Section 2.26 Binding on Assigns**

21 (a) The provisions of this Settlement Agreement shall run in perpetuity. This
22 Settlement Agreement shall be binding upon the Parties hereto and their spouses, heirs, administrators,
23 representatives, executors, successors and assigns, and shall inure to the benefit of Defendant and the
24 Released Parties, and their predecessors, successors, affiliates, subsidiaries, parent companies, partners,
25 current and past employees, officers, directors, shareholders, insurers, agents, legal representatives, and
26 benefit plans, each of which is entitled to enforce this Settlement Agreement.

27 **Section 2.27 Signatories**

28 (a) It is agreed that because the members of the Settlement Class are so numerous, it

1 is impossible or impractical to have each member of the Settlement Class execute this Settlement
2 Agreement. It is agreed that this Settlement Agreement may be executed on behalf of the Settlement
3 Class by Class Counsel and Plaintiff and shall have the same force and effect as if executed by each
4 member of the Settlement Class, who will be notified of the Settlement by the Notice of Settlement.

5 **Section 2.28 Incorporation of Exhibits**

6 (a) All exhibits attached hereto are incorporated by reference and are a material part
7 of this Settlement Agreement. Any notice, order, judgment, or other exhibit that requires approval of
8 the Court must be approved without material alteration from its current form in order for this
9 Settlement Agreement to become effective.

10 **Section 2.29 Reasonableness of Settlement Agreement**

11 (a) The Parties jointly warrant that this is a fair, reasonable, and adequate Settlement
12 and have arrived at this Settlement through arms-length negotiations, involving an experienced and
13 well-regarded mediator, taking into account all relevant factors, present and potential.

14 **Section 2.30 California Law and Interpretation**

15 (a) All terms of this Settlement Agreement and its exhibits will be governed and
16 interpreted by and according to the laws of the State of California, without giving effect to any conflict
17 of law principles or choice of law principles. If the Court determines that the Release of Claims in
18 Section 2.6 above is unenforceable, for whatever reason, this entire Settlement Agreement will become
19 null and void *ab initio*.

20 **Section 2.31 Counterparts**

21 (a) This Settlement Agreement may be executed in counterparts and/or by facsimile
22 or electronic and/or DocuSign signature ("counterpart"), and when each party has signed and delivered
23 at least one such counterpart, each counterpart shall be deemed an original, and, when taken together
24 with other signed counterparts, shall constitute one fully-executed Settlement Agreement, which shall
25 be binding upon and effective as to all Parties.

26 **Section 2.32 Confidential Documents**

27 (a) Plaintiff and Class Counsel agree that none of the documents and information
28 provided to them in discovery or at any other time during this Action shall be used for any purposes

1 other than prosecution of this Action. Class Counsel shall not refer to, rely upon, or otherwise utilize
2 any documents or information obtained during this Action to prosecute a separate action against
3 Defendant and/or any Released Parties; however, nothing in this Section will be construed as a
4 restraint on the right of any counsel to practice, or a limitation on the rights that any Settlement Class
5 Member or Class Counsel may have under any applicable federal, state, or local law to separately
6 obtain documents or information from Defendant.

7 **Section 2.33 Five-Year Rule**

8 (a) The Parties hereby stipulate that Code of Civil Procedure § 583.310 is hereby
9 tolled and that the five years to bring this action to trial shall be calculated from five years from any of
10 the following conditions: (1) the date that either party rescinds this Agreement; (2) the date that either
11 party breaches this Agreement, *i.e.*, refuses to perform any conditions under this Agreement; or (3) the
12 Court denies preliminary and/or final approval of class action settlement, with prejudice.

13 **Section 2.34 Entire Agreement**

14 (a) After this Settlement Agreement is fully executed by the Parties, it will constitute
15 the entire agreement of the Parties. No oral representations, warranties, inducements, or writings have
16 been made by any Party concerning this Settlement Agreement, other than those expressly stated
17 herein.

18 IN WITNESS WHEREOF, Plaintiff and Defendant and their respective undersigned counsel
19 have executed this Settlement Agreement as of the date(s) indicated on the lines below.
20
21
22

23
24 **SIGNATURES FOLLOW ON NEXT PAGE**
25
26
27
28

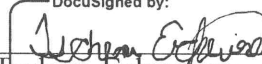
SIGNATURES

PLAINTIFF

DEFENDANT

DATED: 4/6/2023

DATED:

By 
Tschera Echeverria

By _____
Name
Title
Triton Global Services, Inc.

APPROVED AS TO FORM:

DATED: 4/6/2023

DATED:

By 
William L. Marder
POLARIS LAW GROUP LLP
Attorney for Tschera Echeverria
and the Class

By _____
Michael I. Kim
CKB VIENNA LLP
Triton Global Services, Inc.

DATED: April 6, 2023

By 
Dennis Hyun
HYUN LEGAL, APC
Attorney for Tschera Echeverria
and the Class