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Attorneys for Plaintiffs
SYDNEY ELLIOT-BRAND, BERNARDO
BUCHSBAUM, and JOSIE MEISTER,
and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SYDNEY ELLIOTT-BRAND, BERNARDO
BUCHSBAUM, JOSIE MEISTER, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

KFORCE, INC.; KFORCE FLEXIBLE
SOLUTIONS, LLC, and DOES 1-20, inclusive,

Defendants.

Case No. 20STCV49193

**JOINT STIPULATION OF SETTLEMENT
FOR CLASS ACTION, COLLECTIVE
ACTION AND REPRESENTATIVE
ACTION; RELEASE OF CLAIMS**

Judge: Hon. Elihu M. Berle

Date Action Filed: December 24, 2020

1 This Joint Stipulation of Settlement and Release of Claims, which includes the Recitals and all
2 Exhibits attached hereto (the “Agreement” or “Settlement”), is entered into by and between:
3 (1) Plaintiffs (as hereinafter defined), the Class Members, FLSA Collective Members, and PAGA Group
4 Members that Plaintiffs seek to represent (as hereinafter defined), and Plaintiffs’ Counsel (as hereinafter
5 defined), on the one hand, and (2) Defendant (as hereinafter defined), on the other hand (collectively, the
6 “Parties”).

7 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and
8 settle these consolidated class, collective, and representative Actions (as hereinafter defined) and the
9 Released Claims (as hereinafter defined), upon and subject to the terms and conditions hereof, as
10 follows:

11 1. DEFINITIONS

12 As used herein, for the purposes of this Agreement only, the following terms shall be defined as
13 set forth below:

14 1.1. “**Actions**” means all operative and the most recent complaints filed in the following
15 cases: (1) *Sydney Elliott-Brand v. Kforce, Inc. and Kforce Flexible Solutions, LLC*, Superior Court of the
16 State of California, for the County of Los Angeles, Case No. 20STCV49193 (the “Class Action”); and
17 (2) *Bernardo Buchsbaum v. Kforce, Inc. and Kforce Flexible Solutions, LLC*, Superior Court of the State
18 of California, for the County of San Diego, Case No. 37-2020-00030994-CU-OE-CTL (the “PAGA
19 Action”).

20 1.2. “**Amended Complaint**” refers to the First Amended Complaint filed in the Class Action
21 on January 7, 2022, adding Bernardo Buchsbaum and Josie Meister as named plaintiffs and adding
22 claims under the California Private Attorneys General Act of 2004, California Labor Code Section 2968,
23 *et seq.* (“PAGA”), and Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

24 1.3. “**Attorneys’ Fees**” means payment from the Gross Settlement Amount and approved by
25 the Court for recoverable fees associated with the litigation and resolution of the Actions by Plaintiffs’
26 counsel. It is agreed by the Parties that Plaintiffs’ Counsel shall request attorneys’ fees not to exceed
27 one-third of the Gross Settlement Amount, supported by adequate documentation to explain the amount
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1 of fees sought. Defendant has agreed not to oppose Plaintiffs' Counsel's request for attorneys' fees if
2 made as set forth above.

3 1.4. "**Attorneys' Expenses**" means the litigation costs payment from the Gross Settlement
4 Amount and approved by the Court for Plaintiffs' Counsel's costs associated with the litigation and
5 resolution of the Actions, including but not limited to, all recoverable costs that Plaintiffs or Plaintiffs'
6 Counsel incur for the prosecution and litigation of the Actions. Plaintiffs' counsel shall submit adequate
7 documentation to support the amount of expenses sought. Defendant has agreed to not oppose Plaintiffs'
8 Counsel's request for expenses if made as set forth above.

9 1.5. "**Class Members**" refers to all individuals employed by Defendant during the Class
10 Period in California as salaried, exempt employees in one or more of following job positions: (1) Talent
11 Representatives, (2) Talent Representatives FA, (3) Talent Representative Search, (4) Talent Associates,
12 (5) Talent Associates FA, (6) Talent Associate Search, (7) Talent Manager Search, (8) Talent Manager,
13 (9) Talent Manager F&A, (10) Talent Senior Manager, (11) Talent Senior Manager F&A, (12) Talent
14 Senior Manager Search, (13) Talent Director, (14) Talent Director FA, (15) Talent Director Search,
15 (16) Talent Executive, (17) Talent Executive FA, (18) Talent Executive Search, (19) Talent Partner,
16 (20) Talent Partner FA, (21) Talent Partner Search, (22) Vertical/National Delivery Specialist Tech,
17 (23) Vertical/National Delivery Specialist FA, (24) Vertical/National Delivery Senior Specialist Tech,
18 (25) Vertical/National Delivery Senior Specialist FA, (26) Vertical/National Delivery Representative
19 Tech, (27) Vertical/National Delivery Representative FA, (28) Vertical Delivery Senior Representative
20 Tech, (29) Vertical Delivery Senior Representative FA, (30) Vertical Delivery Associate Tech,
21 (31) Vertical Delivery Associate FA, (32) Vertical Delivery Senior Associate Tech, (33) Vertical
22 Delivery Senior Associate FA, (34) Vertical Delivery Senior Tech, and/or (35) Vertical Delivery Senior
23 FA, or similar job titles identified by Defendant ("At-Issue California Positions").

24 1.6. "**Class Period**" refers to the period from December 24, 2016 through the date of the
25 Preliminary Approval of the Settlement.

26 1.7. "**Class Representatives**" or "**Plaintiffs**" means Plaintiffs Sydney Elliott-Brand,
27 Bernardo Buchsbaum, and Josie Meister.
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1.8. **“Defendant”** means Kforce Inc., including its subsidiary Kforce Flexible Solutions, LLC.

1.9. **“Defendant’s Counsel”** refers to Christian J. Rowley and Justin T. Curley of Seyfarth Shaw LLP, and Gina Merrill of King & Spalding LLP. For purposes of providing any notices required under this Agreement, Defendant’s Counsel shall be notified by email at crowley@seyfarth.com for Christian J. Rowley; jcurley@seyfarth.com for Justin T. Curley; and gmerrill@kslaw.com for Gina Merrill.

1.10. **“Effective Date”** means the date that all of the following have occurred:

1.10.1 The Court has granted the motions for final approval of the Settlement and approved amounts for Attorneys’ Fees, Attorneys’ Expenses, Enhancement Award, Settlement Administration Costs, the Class Settlement Payment, the FLSA Settlement Payment, the PAGA Settlement Payment, the employer’s share of any applicable payroll and/or unemployment taxes, the Released Claims, and all the other material terms of this Agreement and has entered the Final Judgment consistent with this Agreement;

1.10.2 The rulings on such motions and Final Judgment have become Final. “Final” means the later of:

1.10.2.1 The time for seeking rehearing or reconsideration and/or appellate review has expired and no timely requests for such review have been made; or

1.10.2.2 If hearing, reconsideration, or appellate review is sought, after any and all avenues of rehearing, reconsideration, and appellate review have been exhausted by the Parties and no further hearing, reconsideration, or appellate review is permitted, and the time for seeking such review has expired.

1.11. **“Enhancement Awards”** means the amount to be paid to Plaintiffs in recognition of their effort and work in prosecuting the Actions on behalf of Class Members, FLSA Group Members, and PAGA Group Members, and for their general release of claims. Subject to the Court’s approval, the Enhancement Awards shall not exceed an amount of \$15,000 for each of the Plaintiffs Sydney Elliott-Brand, Bernardo Buchsbaum, and Josie Meister.

1.12. **“Fairness Hearing” or “Final Approval”** refers to the hearing at which the Court will make a final determination whether the terms of the Agreement are fair, reasonable, and adequate for the Class Members, FLSA Collective Members, and PAGA Group Members, and meet all applicable requirements for Final Approval.

1.13. **“FLSA Collective Members”** means all individuals employed by Defendant during the FLSA Period as salaried, exempt employees in one or more of the following job positions: (1) Talent Representatives, (2) Talent Representatives FA, (3) Talent Associates, (4) Talent Associates FA, (5) Talent Representative Search, (6) Talent Associate Search, (7) Vertical/National Delivery Specialist Tech, (8) Vertical/National Delivery Specialist FA, (9) Vertical/National Delivery Senior Specialist Tech, (10) Vertical/National Delivery Senior Specialist FA; (11) Vertical/National Delivery Representative Tech; (12) Vertical/National Delivery Representative FA, (13) International Recruiter; (14) ISS Talent Associate; (15) ISS Talent Manager; (16) ISS Talent Manager Senior; (17) ITS Resource Manager; (18) ITS Resource Manager Senior; (19) VSD Talent Associate; (20) VSD Talent Representative NE; (21) VSD Talent Manager; (22) VSD Talent Manager Senior; and/or (23) VSD Talent Director, and who did not sign an arbitration agreement prior to working in one of these twenty-three (23) positions during the FLSA Period (“At-Issue FLSA Positions”).

1.14. **“FLSA Settlement Payment”** means the portion of the Net Settlement Amount allocated to the FLSA Collective Members. The FLSA Settlement Payment shall be fifty percent (50%) of the Net Settlement Amount.

1.15. **“FLSA Individual Settlement Payment”** means the amount payable to each FLSA Collective Member. If an FLSA Collective Member does not cash or deposit their individual FLSA settlement check within one hundred and eighty (180) days from the date the check is mailed by the Settlement Administrator, the FLSA Collective Member will be excluded from the FLSA Collective Action and the release of Released FLSA Claims. Each FLSA Collective Member will receive a share of their FLSA Settlement Payment, determined by the distribution formula set forth in paragraph 4.8.3.1. Each FLSA Collective Member’s total relevant compensation for purposes of the distribution formula shall be determined based on Defendant’s employment records for the FLSA Period. Twenty-five

1 percent (25%) of each FLSA Individual Settlement Payment shall be allocated as wages and seventy-
2 five percent (75%) as non-wage payments.

3 1.16. “**FLSA Period**” refers to the period from March 19, 2018 through the date of the
4 Preliminary Approval of the Settlement, or February 14, 2022, whichever is earlier.

5 1.17. “**Class Settlement Payment**” means the portion of the Net Settlement Amount allocated
6 to Class Members who do not submit a timely and valid request to be excluded. The Class Settlement
7 Payment shall be fifty percent (50%) of the Net Settlement Amount.

8 1.18. “**Individual Class Settlement Payment**” means the amount payable to each Class
9 Member. Each Class Member who does not submit a timely and valid request to be excluded shall be
10 entitled to a share of the Class Settlement Payment, determined by the distribution formula set forth in
11 paragraph 4.8.1. Each Class Member’s total relevant compensation for purposes of the distribution
12 formula shall be determined based on Defendant’s employment records for the Class Period. Twenty-
13 five percent (25%) of each Individual Settlement Payment shall be allocated as wage payments and
14 seventy-five percent (75%) as non-wage payments.

15 1.19. “**Gross Settlement Amount**” means the entire amount that is allocated towards the
16 resolution of the Actions, in an amount not to exceed \$3,250,000.00, to be paid by Defendant pursuant
17 to this Agreement. The Gross Settlement Amount is fully inclusive of the Class Settlement Payment, the
18 FLSA Settlement Payment, the PAGA Payment, Enhancement Awards, Settlement Administration
19 Costs, Attorney’s Fees, and Attorneys’ Expenses.

20 The Gross Settlement Amount is a material term of this Agreement. To the extent Plaintiffs or
21 the Court seek to require Defendant pay more than the Gross Settlement Amount, Defendant shall retain
22 the right, in the exercise of its sole discretion, to nullify the Agreement.

23 1.20. “**Net Settlement Amount**” means the portion of the Gross Settlement Amount remaining
24 for payments to Class Members and FLSA Collective Members, after deductions for approved
25 Enhancement Awards, PAGA Payment, Settlement Administration Costs, Attorneys’ Fees, and
26 Attorneys’ Expenses. Fifty percent (50%) of the Net Settlement Amount will be allocated to the Class
27 Settlement Payment for all Class Members who did not submit a timely and valid Request for Exclusion.
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1 The remaining fifty percent (50%) of the Net Settlement Amount will be allocated to the FLSA
2 Settlement Payment for all FLSA Collective Members.

3 1.21. “**Notice of Settlement**” refers to the notices to be distributed to all Class Members,
4 FLSA Collective Members, and PAGA Group Members after the Court issues a Preliminary Approval
5 Order. The Notice for Class Members and PAGA Group Members shall be substantially in the form
6 attached as **Exhibit A** to this Agreement, and the Notice for FLSA Collective Members shall be
7 substantially in the form attached as **Exhibit B** to this Agreement.

8 1.22. “**Members**” means Class Members, FLSA Collective Members, and PAGA Group
9 Members.

10 1.23. “**Opt in Deadline**” means the deadline by which a FLSA Collective Member must cash
11 or deposit a FLSA settlement check in order to opt in to the FLSA Collective Action and be bound by
12 the release of Released FLSA Claims, based on the procedure provided in paragraph 6.6. This deadline
13 shall be one hundred and eighty (180) calendar days from the date the checks are mailed by the
14 Settlement Administrator.

15 1.24. “**PAGA Payment**” means the amount allocated to penalties for claims asserted under
16 PAGA. The sum of \$250,000 is allocated to the PAGA Payment, of which \$187,500 (75%) will be paid
17 to the California Labor Workforce Development Agency (“LWDA”) consistent with Labor Code
18 2699(i) and (j), and the remaining \$62,500 (25%) will be paid to PAGA Group Members.

19 1.25. “**Pay Periods**” refers to the number of pay periods that a Class Member, a FLSA
20 Collective Member, or a PAGA Group Member worked for Defendant during the Class Period, FLSA
21 Period, or PAGA Period.

22 1.26. “**Individual PAGA Payment**” means the amount payable to each PAGA Group Member
23 from the 25% portion of the PAGA Amount that is allocated to PAGA Group Members as provided in
24 Paragraph 1.24. One-hundred percent (100%) of the Individual PAGA Payment shall be allocated as
25 non-wage payments.

26 1.27. “**PAGA Group Members**” means all individuals employed by Defendant during the
27 PAGA Period in California as salaried, exempt employees in one or more of the following job positions:
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(1) Talent Representatives, (2) Talent Representatives FA, (3) Talent Representative Search, (4) Talent Associates, (5) Talent Associates FA, (6) Talent Associate Search, (7) Talent Manager Search, (8) Talent Manager, (9) Talent Manager F&A, (10) Talent Senior Manager, (11) Talent Senior Manager F&A, (12) Talent Senior Manager Search, (13) Talent Director, (14) Talent Director FA, (15) Talent Director Search, (16) Talent Executive, (17) Talent Executive FA, (18) Talent Executive Search, (19) Talent Partner, (20) Talent Partner FA, (21) Talent Partner Search, (22) Vertical/National Delivery Specialist Tech, (23) Vertical/National Delivery Specialist FA, (24) Vertical/National Delivery Senior Specialist Tech, (25) Vertical/National Delivery Senior Specialist FA, (26) Vertical/National Delivery Representative Tech, (27) Vertical/National Delivery Representative FA, (28) Vertical Delivery Senior Representative Tech, (29) Vertical Delivery Senior Representative FA, (30) Vertical Delivery Associate Tech, (31) Vertical Delivery Associate FA, (32) Vertical Delivery Senior Associate Tech, (33) Vertical Delivery Senior Associate FA, (34) Vertical Delivery Senior Tech, and/or (35) Vertical Delivery Senior FA, or similar job titles identified by Defendant.

1.28. **“PAGA Period”** refers to the period from April 6, 2019 through the date of the Preliminary Approval of the Settlement, or February 14, 2022, whichever is earlier.

1.29. **“Plaintiffs’ Counsel”** or **“Class Counsel”** refers to Jonathan M. Lebe, Yuri Chornobil, and Nicolas W. Tomas of Lebe Law, APLC. For purposes of providing any notices required under this Agreement, Plaintiffs’ Counsel shall be notified by email at Jon@lebelaw.com for Jonathan M. Lebe, at Nicolas@lebelaw.com for Nicolas W. Tomas, and at Yuri@lebelaw.com for Yuri Chornobil.

1.30. **“Preliminary Approval Order”** refers to the order issued and entered by the Court following a Motion for Preliminary Approval of this Settlement Agreement.

1.31. **“Released Claims”** means the Released Class Claims, Released FLSA Claims, and Released PAGA claims, as defined below.

1.32. **“Released Class Claims”** means any claims, rights, demands, liabilities, and causes of action, whether known or unknown, that were asserted or that could have been asserted based on the facts alleged in the Amended Complaint during the Class Period, including but not limited to all claims under California Labor Code sections 201-204, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1194,

1 1197, 1197.1, 1198, 1198.5, 2800, and 2802, any applicable California Industrial Welfare Commission
2 (“IWC”) Wage Order, the California Code of Regulations, the California Unfair Competition Law,
3 California Business and Professions Code section 17200 *et seq.*, the Fair Labor Standards Act, 29 U.S.C.
4 §§ 201, *et seq.*, and any remedies for any of the claims described herein, including, damages, penalties,
5 restitution, declaratory relief, equitable or injunctive relief, interest, attorneys’ fees and costs.

6 1.33. “**Released FLSA Claims**” means any claims, rights, demands, liabilities, and causes of
7 action, whether known or unknown, that were asserted or that could have been asserted based on the
8 facts alleged in the FLSA Collective Action or the Amended Complaint under the Fair Labor Standards
9 Act, 29 U.S.C. §§ 201, *et seq.* that accrued during the FLSA Period, including, without limitation, all
10 federal claims for unpaid overtime wages or minimum wages and any and all related claims for
11 penalties, interest, liquidated damages, attorneys’ fees, costs, and expenses.

12 1.34. “**Released PAGA Claims**” means all claims under the California Private Attorneys
13 General Act of 2004 (“PAGA”) that were asserted or that could have been asserted based on the facts
14 alleged in the Amended Complaint or claims raised in Plaintiffs’ notice to the LWDA and arising during
15 the PAGA Period. This includes, but is not limited to, claims for PAGA penalties based on California
16 Labor Code sections 201-204, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1197, 1197.1,
17 1198, 1198.5, 2800, 2802, any applicable IWC Wage Order, the California Code of Regulations, as well
18 as all claims for PAGA penalties arising under the listed Labor Code statutes based on the primary rights
19 of those statutes, irrespective of the theory of recovery alleged. The PAGA Group Members will not
20 have the opportunity to opt out of, or object to, the Released PAGA Claims. Further, the PAGA Group
21 Members are bound by the Released PAGA Claims regardless of whether they cash and/or otherwise
22 negotiate their Individual PAGA Payment.

23 1.35. “**Released Parties**” refers to Defendant and/or any of its current or former parents,
24 successors, predecessors, affiliates, subsidiaries (including but not limited to Kforce Flexible Solutions,
25 LLC) or related entities, or any of their current or former officers, directors, members, shareholders,
26 managers, human resources representatives, employees, agents, contractors, insurance carriers,
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representatives, attorneys, insurers, successors and assigns, and any other persons acting by, through, under, or in concert with any of them.

1.36. **“Response Deadline”** means the deadline by which Members must submit a request to be excluded, objection, or dispute regarding Pay Periods, as applicable, which shall be the date that is forty-five (45) calendar days from the initial mailing of the Notice of Settlement by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Plaintiffs’ Counsel and Defendant’s Counsel. Under no circumstances, however, will the Settlement Administrator have the authority to extend the Response Deadline. In the event that a Notice of Settlement is re-mailed to a Member, the Response Deadline for that Member shall be extended by ten (10) calendar days.

1.37. **“Settlement,” “Settlement Agreement” or “Agreement”** refers to this Agreement to settle all of the Released Claims that are asserted, or could have been asserted, based on the facts alleged in the Actions and the Amended Complaint.

1.38. **“Settlement Administration Costs”** refer to the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to:

1.38.1 Printing, distributing, and tracking the Notice of Settlement and resending as needed pursuant to the terms of this Agreement;

1.38.2 Establishing a separate employer identification number and a Qualified Settlement Fund, tax reporting, making tax payments, and providing required 1099 and W-2 forms;

1.38.3 Calculating and distributing the Class Settlement Payment, FLSA Settlement Payment, Enhancement Awards, Attorneys’ Fees, Attorneys’ Expenses, and the PAGA Payment;

1.38.4 Documenting and determining which Class Members have submitted a timely and valid request to be excluded or objection, and which FLSA Collective Members have timely cashed or deposited FLSA settlement checks to opt into the FLSA Collective Action and be bound by the release of Released FLSA Claims. This shall also include resolving any disputes regarding the submission of

1 timely and valid requests to be excluded and objections, and cashing or depositing of FLSA settlement
2 checks, after consultation with Plaintiffs' Counsel and Defendant's Counsel;

3 1.38.5 Depositing any remaining pro rata funds from uncashed checks into the State of
4 California Department of Industrial Relations Unclaimed Wages Fund with the respective identities of
5 the Class Members and PAGA Group Members to whom the funds belong.

6 1.38.6 Providing necessary reports and declarations, as requested by the Parties or the
7 Court, including weekly reports on the number of Class Members who have timely submitted requests to
8 be excluded or objections, the number of FLSA Collective Members who have timely cashed or
9 deposited their FLSA settlement checks, as well as on whether any Class Member, FLSA Collective
10 Member, or PAGA Group Member has submitted a challenge to the information in their Notice of
11 Settlement; and,

12 1.38.7 The Settlement Administration Costs shall be paid from the Gross Settlement
13 Amount, including, if necessary, any such costs in excess of the amount estimated by the Settlement
14 Administrator.

15 1.39. "**Settlement Administrator**" refers to CPT Group, Inc., a third-party class action
16 settlement administrator chosen by the Parties and subsequently approved by the Court for the purposes
17 of administering this Settlement. The Parties each represent that they do not have any financial interest
18 in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
19 could create a conflict of interest.

20 1.40. "**Settlement Class Members**" means all Class Members who do not timely and properly
21 opt out of the settlement provided for in this Settlement by not submitting a timely and valid request to
22 be excluded.

23 1.41. "**Settlement FLSA Collective Members**" means all FLSA Collective Members who
24 timely opt in to the FLSA Collective Action and are bound by the release of Released FLSA Claims and
25 this Settlement by cashing or depositing their FLSA settlement checks within one hundred and eighty
26 (180) days from the date the checks are mailed by the Settlement Administrator.

1.42. “**Settlement Class List**” means a list of Class Members, FLSA Collective Members, and PAGA Group Members that Defendant will compile and provide to the Settlement Administrator within ten (10) business days after Preliminary Approval Order of this Settlement. The Settlement Class List shall be provided in electronic form and include the following information: (1) name of each Member (2) the most current, known mailing address of each Member; (3) the telephone number of each Member, if available; (4) the social security number of each Member; (5) the total number of Pay Periods of each Member; and (6) the dates of employment for each Member, as well as any other information needed to calculate the FLSA Individual Settlement Payments, Individual Class Settlement Payments, and Individual PAGA Payments.

2. PROCEDURAL HISTORY AND RECITALS

2.1. **The Class Action:** On December 24, 2020, Plaintiff Sydney Elliott-Brand filed a class action complaint in the Superior Court of the State of California, Los Angeles County, Case No. 20STCV49193. The Complaint alleges nine causes of action, as follows: (1) Failure To Pay Minimum Wages; (2) Failure To Pay Overtime Wages; (3) Failure To Pay All Wages; (4) Failure To Provide Meal Periods; (5) Failure To Permit Rest Breaks; (6) Failure To Reimburse All Business Expenses; (7) Failure To Provide Accurate And Itemized Wage Statements; (8) Failure To Pay All Wages And Vacation Pay Due Upon Separation Of Employment; and (9) Violation Of Business And Professions §§ 17200, *et seq.*

2.2. **The PAGA Action:** On September 3, 2020, Plaintiff Bernardo Buchsbaum, on behalf of himself and other allegedly similarly aggrieved employees, filed a PAGA lawsuit against Defendant in the Superior Court of the State of California, San Diego County, Case No. Case No. 37-2020-00030994-CU-OE-CTL. On January 19, 2021, Buchsbaum filed a First Amended Complaint, clarifying the group of aggrieved employees he seeks to represent. Buchsbaum’s PAGA action is based on multiple alleged California Labor Code violations, including failure to: pay minimum wages, pay overtime wages, provide meal and rest breaks, provide accurate wage statements, reimburse business expenses, and pay unused, vested vacation wages.

2.3. **The FLSA Collective Action:** On July 31, 2021, Plaintiff Darryn Lewis filed a putative collective action complaint in the U.S. District Court for the Southern District of California alleging a

1 single cause of action for failure to pay overtime pay under the Fair Labor Standards Act, 29 U.S.C.
2 section § 201 *et seq.*

3 **2.4. The Amended Complaint:** On January 7, 2022, Plaintiff Sydney Elliott-Brand filed a
4 First Amended Complaint, adding Bernardo Buchsbaum and Josie Meister as named plaintiffs and
5 adding claims under the California Private Attorneys General Act of 2004, California Labor Code
6 Section 2968, *et seq.* (“PAGA”), and Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

7 **2.5. The Parties Have Engaged in Extensive Discovery**

8 2.5.1 During the litigation of the Actions, Plaintiffs’ Counsel investigated the claims
9 against Defendant, which included an analysis of any and all applicable defenses. The investigation also
10 included, *inter alia*, the informal exchange of substantial data and documents for purposes of mediation.
11 Defendant provided all pay data for Class Members, FLSA Collective Members, and PAGA Group
12 Members. These records were furnished in electronic and searchable format so they could be examined
13 to determine Defendant’s level of compliance with the provisions of the California Labor Code that are
14 subject of the claims in the Actions, and to evaluate potential damages and penalties. Defendant also
15 provided its written policies and procedures pertaining to the claims in the Actions. In addition,
16 Defendant provided the relevant job descriptions concerning the Class Members, FLSA Collective
17 Members, and PAGA Group Members. Plaintiffs’ Counsel represent that they have thoroughly
18 investigated Plaintiffs’ claims against Defendants.

19 2.5.2 Plaintiffs’ Counsel further represent that they have conducted their own
20 investigation into the underlying facts, events, and issues related to the subject matter of the Actions. In
21 addition, Plaintiffs’ Counsel represent that they have undertaken an extensive analysis of the legal
22 principles applicable to the claims asserted against Defendant, and the potential defenses thereto. All
23 Parties have had ample opportunity to evaluate their respective positions on the merits of the claims
24 asserted.

25 **2.6. The Parties Participated in a Private Mediation.** On November 12, 2021, the Parties
26 participated in a full-day mediation with Henry J. Bongiovi, a highly respected and experienced
27 mediator in wage-and-hour class action cases. After a full day of negotiations with the assistance of the
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mediator, the Parties agreed to settle the Actions for an amount not to exceed \$3,250,000 ("Gross Settlement Amount"). \$1,500,000 of the Gross Settlement Amount is allocated for the resolution of the Class Action, and \$1,500,000 of the Gross Settlement Amount is allocated for the resolution of the FLSA Collective Action. The remaining \$250,000 is allocated for the resolution of the PAGA Action. In no event will Defendant be liable for more than the Gross Settlement Amount, except pursuant to the Escalator Clause in Paragraph 9.3 of the Agreement and that Defendant shall pay the employer's share of payroll taxes for the Class Settlement Payment and the FLSA Settlement Payment, to the extent that the employer's share of payroll taxes is not covered by any unclaimed funds. The entire Gross Settlement Amount will be disbursed pursuant to the terms and conditions of this Agreement.

2.7. **The Settlement is the Result of Arm's Length Negotiations.** Based on the foregoing investigation and evaluation, Plaintiffs' Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable, adequate, and in the best interests of the Class Members, FLSA Collective Members, and PAGA Group Members. The terms of this Settlement also reflect extensive exchange of information and data between the Parties, which allowed Plaintiffs' Counsel to fully evaluate the potential risks in seeking class and collective certification and representative treatment, and pursuing the underlying claims on the merits. This Agreement was reached after extensive arm's length negotiations, and it was negotiated in light of all known facts and circumstances, including the risks of significant delay and uncertainty associated with protracted litigation, the risk that the Actions would not be subject to class and collective certification or representative treatment, various defenses asserted by Defendant, and numerous potential appellate issues.

2.8. **The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of action, obligations or liability of any and every kind that were or that could have been asserted in the Actions and the Amended Complaint, to the extent that such claims arise out of the alleged facts, circumstances, and occurrences underlying the allegations as set forth in the claims filed in the Actions and Amended Complaint.

1 **2.9. Certification of Class Action and FLSA Collective Action for Settlement Purposes**

2 **Only.** This Agreement is contingent upon approval of class and collective certification by the Court of
3 Class Members and FLSA Collective Members for settlement purposes only. Defendant does not waive,
4 and instead expressly reserves, its right to challenge the propriety of class certification, collective action
5 certification, or representative treatment for any other purpose should the Court not approve this
6 Settlement Agreement.

7 **2.10. The Parties' Agreement to Cooperate.** The Parties agree to cooperate and to take all
8 steps necessary and appropriate to effectuate all aspects of this Agreement, to obtain a Preliminary
9 Approval Order and Final Approval Order of this Settlement, and to dismiss the Actions, the Amended
10 Complaint, and the claims of Class Members, FLSA Collective Members, and PAGA Group Members
11 with prejudice upon Final Approval.

12 **NOW THEREFORE**, in consideration of the covenants and agreements set forth herein, and of
13 the release and dismissal of all Released Claims, the Parties stipulate and agree to the terms and
14 provisions of this Settlement Agreement, subject to the approval of the Court.

15 **3. NON-ADMISSION OF LIABILITY**

16 **3.1.** Defendant denies and continues to deny all of the allegations made by Plaintiffs in the
17 Actions and denies and continues to deny that it is liable or owes any damages, penalties, or other
18 compensation or remedies to anyone with respect to the alleged facts or claims asserted in the Actions
19 and Amended Complaint. Defendant denies any liability or wrongdoing of any kind in connection with
20 Plaintiffs' claims, and contends that, during all relevant time periods, it complied in all respects with
21 applicable state and federal laws and regulations. Nonetheless, without admitting or conceding any
22 liability or damages whatsoever, and without admitting that a class, collective, or representative action is
23 appropriate except for settlement purposes alone, Defendant has agreed to settle the Actions on the terms
24 and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continued
25 litigation.

26 **3.2.** The Parties understand and agree that this Agreement and any exhibits thereto are
27 settlement documents and shall be inadmissible for any purpose in any proceeding, except an action or
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proceeding to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement.

4. COMPUTATION AND DISTRIBUTION OF SETTLEMENT PROCEEDS

4.1. **Funding of Gross Settlement Amount.** Defendant shall deposit into an interest bearing escrow account with the Settlement Administrator the Gross Settlement Amount, within thirty (30) calendar days after the Effective Date, or as otherwise directed by the Court.

4.2. **Enhancement Awards.** Plaintiffs' Counsel intends to request and Defendant does not oppose that the Court approve the Enhancement Awards of \$15,000 for each of the Class Representatives Sydney Elliott-Brand, Bernardo Buchsbaum, and Josie Meister and such payments shall not be subject to payroll taxes or withholdings. The Enhancement Awards are in addition to Class Representatives' Individual Settlement Payment, FLSA Individual Settlement Payment, or Individual PAGA Payment.

4.2.1 **Approval of Enhancement Awards is Not Material.** The Court's approval of the Enhancement Awards is not a material term this Agreement. If the Court does not approve or approves only a lesser amount than that requested by Plaintiffs' Counsel, the other terms of this Agreement shall apply. The Court's refusal to approve the Enhancement Awards as requested by Plaintiffs' Counsel does not give the Class Representatives or Plaintiffs' Counsel any basis to abrogate this Settlement. Any amount of the Enhancement Awards as requested by Plaintiffs' Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

4.2.2 **Timing of Enhancement Awards.** The Settlement Administrator shall pay to the Class Representatives any approved Enhancement Awards no later than twenty (20) calendar days after the funding of the Gross Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099 to Class Representatives for any Enhancement Awards. Class Representatives shall be solely and legally responsible for paying all applicable taxes on any Enhancement Awards and shall indemnify and hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a result of

1 the payment.

2 **4.3. Attorneys' Fees.** Plaintiffs' Counsel intend to request and Defendant agrees not to
3 oppose that the Court approve Attorneys' Fees in an amount up to one-third of the Gross Settlement
4 Amount (i.e., \$1,083,333.33), supported by adequate documentation by Plaintiffs' Counsel to support
5 the amount of fees sought. Except as provided in this Agreement, Defendant shall have no liability for
6 any other attorneys' fees.

7 **4.4. Attorneys' Expenses.** Plaintiffs' Counsel intend to request and Defendant agrees not
8 to oppose that the Court approve Attorneys' Expenses, supported by adequate documentation to
9 support the amount of Attorneys' Expenses sought. Except as provided in this Agreement, Defendant
10 shall have no liability for any other costs.

11 **4.4.1 Approval of Attorneys' Fees and Attorneys' Expenses Not Material.** The
12 Court's approval of Attorneys' Fees and/or Attorneys' Expenses is not a material term of the Settlement
13 or this Agreement. If the Court does not approve or approves only a lesser amount than that requested by
14 Plaintiffs' Counsel for Attorneys' Fees and/or Attorneys' Expenses, the other terms of this Agreement
15 shall still apply. The Court's refusal to approve the Attorneys' Fees and/or Attorneys' Expenses
16 requested by Plaintiffs' Counsel does not give the Class Representatives, the Class Members, FLSA
17 Collective Members, PAGA Group Members, or Plaintiffs' Counsel any basis to abrogate this
18 Settlement. Any amount of Attorneys' Fees and/or Attorneys' Expenses requested by Plaintiffs' Counsel
19 but unapproved by the Court shall be allocated to the Net Settlement Amount.

20 **4.4.2 Timing of Payment of Attorneys' Fees and Attorneys' Expenses.** The
21 Settlement Administrator shall pay to Plaintiffs' Counsel any approved Attorneys' Fees and Attorneys'
22 Expenses no later than twenty (20) calendar days after the Funding of the Gross Settlement Amount.
23 The Settlement Administrator shall issue an Internal Revenue Service Form 1099 to Plaintiffs' Counsel
24 for any Attorneys' Fees and Attorneys' Expenses payment, based on the allocation communicated by
25 Plaintiffs' Counsel. Plaintiffs' Counsel shall be solely and legally responsible for paying all applicable
26 taxes on any Attorneys' Fees and Attorneys' Expenses payments and shall indemnify and hold harmless
27 Defendant from any claim or liability for taxes, penalties, or interest arising as a result of the payment.
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1 **4.5. Settlement Administration Costs.** Plaintiffs' Counsel intend to request and Defendant
2 agrees not to oppose that the Court approves Settlement Administration Costs, which shall not exceed
3 Twenty Thousand Dollars (\$20,000) and is currently estimated at Twelve Thousand and Five Hundred
4 Dollars (\$12,500), and will be paid from the Gross Settlement Amount. Any amount of Settlement
5 Administration Costs requested by Plaintiffs' Counsel but unapproved by the Court shall be allocated to
6 the Net Settlement Amount. Upon completion of administration of the Settlement, the Settlement
7 Administrator shall provide a written certification of such completion to Plaintiffs' and Defendant's
8 Counsel. The Parties agree to cooperate in the settlement administration process and to make all
9 reasonable efforts to control and to minimize Settlement Administration Costs.

10 **4.5.1 Approval of Settlement Administration Costs Not Material.** The Court's
11 approval of the Settlement Administration Costs is not a material term of this Agreement. If the Court
12 does not approve or approves only a lesser amount than that requested by Plaintiffs' Counsel for
13 Settlement Administration Costs, the other terms of this Agreement shall still apply. The Court's refusal
14 to approve the Settlement Administration Costs requested by Plaintiffs' Counsel does not give the Class
15 Representatives, the Class Members, FLSA Collective Members, PAGA Group Members, or Plaintiffs'
16 Counsel any basis to abrogate this Settlement. Any amount of Settlement Administration Costs
17 requested by Plaintiffs' Counsel but unapproved by the Court shall be allocated to the Net Settlement
18 Amount.

19 **4.6. PAGA Payment.** The Parties will seek approval for a PAGA Payment of \$250,000 to be
20 paid from the Gross Settlement Amount. Seventy-five percent (75%) of the PAGA Payment (or
21 \$187,500) will be paid to the LWDA consistent with Labor Code section 2699(i) and (j) no later than
22 twenty (20) calendar days after the Funding of the Gross Settlement Amount. The remaining twenty-five
23 percent (25%) allocated to the PAGA Payment (or \$62,500) shall be available for distribution to PAGA
24 Group Members under the terms of this Agreement.

25 **4.7. Allocation of Net Settlement Amount.** Fifty percent (50%) of the Net Settlement
26 Amount will be allocated to the Class Settlement Payment, to be distributed to Class Members who do
27 not opt out of the Settlement by submitting a timely and valid request to be excluded. The remaining
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fifty percent (50%) of the Net Settlement Amount will be allocated to the FLSA Settlement Amount, to be distributed to FLSA Collective Members.

4.8. Individual Class Settlement Payments. Class Members who do not opt out by submitting a timely and valid request to be excluded ("Settlement Class Members") shall be entitled to receive a portion of the Class Settlement Payment, in accordance with the formula set forth below.

4.8.1 Calculation of Each Class Member's Share of the Class Settlement Payment.

Each Class Member will be eligible to receive a portion of the Class Settlement Payment in accordance with the following formula:

Each Class Member's potential share of the Class Settlement Payment will be calculated by tallying his or her total compensation (inclusive of salary, bonus, commission and miscellaneous wages) earned during the Class Period while working in an At-Issue California Position ("Individual Compensation") and dividing by the total compensation (inclusive of salary, bonus, commission and miscellaneous wages) earned by all Settlement Class Members during the Class Period while working in an At-Issue California Position ("Total Class Compensation"), then multiplied by the Class Settlement Payment i.e., $(\text{Individual Compensation} \div \text{Total Class Compensation}) \times \text{Class Settlement Payment}$.

4.8.2 Allocation of Individual Class Settlement Payments. Each Class Member's Individual Class Settlement Payment will be characterized as seventy-five percent (75%) Form 1099 income and twenty-five percent (25%) W-2 income, to reflect that 75% of the payment will account for penalties and interest that are not subject to payroll deductions, while 25% will account for unpaid wages that are subject to payroll deductions. In accordance with applicable tax laws, required tax withholdings and payroll deductions will be taken from each Individual Class Settlement Payment for the portion allocated to Form W-2 income and remitted to the appropriate taxing authorities. The employer's share of payroll taxes shall first be paid from any unclaimed funds and then by Defendant separately (i.e., in addition to the Gross Settlement Amount). The Settlement Administrator shall issue all necessary IRS Form 1099 and Form W-2 statements to Class Members for their respective Individual Class Settlement Payment. Class Members shall be solely and legally responsible for paying all other applicable taxes on their respective Individual Class Settlement Payment, if any, and shall indemnify

1 and hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a
2 result of the payments.

3 **4.8.3 FLSA Individual Settlement Payments.** FLSA Collective Members shall be
4 entitled to receive a portion of the FLSA Settlement Payment, in accordance with the formula set forth
5 below.

6 **4.8.3.1 FLSA Individual Settlement Payment Calculation.** Each FLSA
7 Collective Member shall be entitled to receive a portion of the FLSA Settlement Payment in accordance
8 with the following formula:

9 Each FLSA Collective Member's potential share of the FLSA Settlement
10 Payment will be calculated by tallying his or her total compensation
11 (inclusive of salary, bonus, commission and miscellaneous wages) earned
12 during the FLSA Period while working in an At-Issue FLSA Position
13 ("Individual FLSA Compensation") divided by the total compensation
14 (inclusive of salary, bonus, commission and miscellaneous wages) earned
during the FLSA Period by all FLSA Collective Members while working in
an At-Issue FLSA Position ("Total FLSA Compensation"), then multiplied
by the FLSA Settlement Payment i.e., (Individual FLSA Compensation
÷ Total FLSA Compensation) × FLSA Settlement Payment.

15 **4.8.3.2 Allocation of FLSA Individual Settlement Payments.** Each FLSA
16 Collective Member's FLSA Individual Settlement Payment will be characterized as seventy-five percent
17 (75%) Form 1099 income and twenty-five percent (25%) W-2 income, to reflect that 75% of the
18 payment will account for penalties and interest that are not subject to payroll deductions, while 25% will
19 account for unpaid wages that are subject to payroll deductions. In accordance with applicable tax laws,
20 required tax withholdings and payroll deductions will be taken from each FLSA Individual Settlement
21 Payment for the portion allocated to Form W-2 income and remitted to the appropriate taxing
22 authorities. The employer's share of payroll taxes shall first be paid from any unclaimed funds and then
23 by Defendant separately (i.e., in addition to the Gross Settlement Amount). The Settlement
24 Administrator shall issue all necessary IRS Form 1099 and Form W-2 statements to Settlement FLSA
25 Collective Members for their respective FLSA Individual Settlement Payment. Settlement FLSA
26 Collective Members shall be solely and legally responsible for paying all other applicable taxes on their
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1 respective FLSA Individual Settlement Payment, if any, and shall indemnify and hold harmless
2 Defendant from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

3 **4.9. Individual PAGA Payments.** Class Members who are also PAGA Group Members shall
4 be entitled to receive a portion of the PAGA Payment, in accordance with the formula set forth below.

5 Each PAGA Group Member's potential share of the PAGA Payment will be
6 calculated by his or her total number of Pay Periods during the PAGA Period
7 divided by the total number of Pay Periods worked by all PAGA Group Members,
then multiplied by the PAGA Payment i.e., (individual Pay Periods ÷ total Pay
Periods worked by PAGA Group Members) × PAGA Payment).

8 **4.10. Settlement Checks.** If a Class Member is entitled to an Individual Class Settlement
9 Payment and an Individual PAGA Payment, the Individual Class Settlement Payment and the Individual
10 PAGA payment will be combined and distributed as one single check. FLSA Collective Members will
11 receive their FLSA Individual Settlement Payments as a separate check.

12 **4.10.1 Timing of Individual Class Settlement Payments, FLSA Individual**
13 **Settlement Payments, and Individual PAGA Payments.** The Settlement Administrator shall issue the
14 checks constituting the Individual Settlement Payments, FLSA Individual Settlement Payments, and the
15 Individual PAGA Payments no later than twenty (20) calendar days after the Funding of the Gross
16 Settlement Amount.

17 **4.11. Non-Reversionary Settlement For Undeliverable or Uncashed Checks.** This
18 Settlement shall be a non-reversionary Settlement; provided, however, that the employer's share of
19 payroll taxes shall first be paid from any unclaimed funds and then by Defendant separately (i.e., in
20 addition to the Gross Settlement Amount). Any settlement checks distributing Individual Class
21 Settlement Payments, FLSA Individual Settlement Payments, and/or Individual PAGA Payments
22 returned to the Settlement Administrator as undeliverable shall be sent within five (5) calendar days via
23 First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the
24 Settlement Administrator shall attempt to determine the correct address using a single computer skip-
25 trace search, and it shall then perform a re-mailing within five (5) calendar days. The amount of any
26 Individual Class Settlement Payment and Individual PAGA Settlement that remain undeliverable or
27 uncashed one hundred and eighty (180) calendar days after the postmarked date of the initial mailing of
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these payments will be expired and shall be first used to pay the employer's share of payroll taxes; any amount that remains shall be deposited on a pro rata basis by the Settlement Administrator into the State of California Department of Industrial Relations Unclaimed Wages Fund with the respective identities of the Class Members and PAGA Group Members to whom the funds belong. Uncashed FLSA settlement checks within this timeframe will be redistributed to the Settlement FLSA Collective Members on a pro rata basis.

4.12. Tax Payment Considerations. Neither Plaintiffs' Counsel nor Defendant's Counsel intend anything contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

4.12.1 No Tax Advice or Liability. Each Class Member, FLSA Collective Member, and PAGA Group Member agree to indemnify, and to hold harmless Defendant from any liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay taxes, interest, fees, or penalties owed.

4.13. No Impact on Employee Benefit Plans. None of the payments made pursuant to the Settlement shall be considered for purposes of determining eligibility for, vesting or participation in, or contributions to any benefit plan, including, without limitation, all plans subject to the Employee Retirement and Income Security Act of 1974 ("ERISA"). Any distribution of payments to Plaintiffs or Class Members, FLSA Collective Members, and PAGA Group Members shall not be considered as a payment of wages or compensation under the terms of any applicable benefit plan and shall not affect participation in, eligibility for, vesting in, the amount of any past or future contribution to, or level of benefits under any applicable benefit plan. Any amounts paid will not impact or modify any previously credited hours of service or compensation taken into account under any benefit plan sponsored or contributed to by Defendant or any jointly-trusted benefit plan. For purposes of this Agreement, "benefit plan" means each and every "employee benefit plan," as defined in 29 U.S.C. Section 1002(3), and, even if not thereby included, any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, severance, hospitalization,

1 insurance, incentive, deferred compensation, or any other similar benefit plan, practice, program, or
2 policy.

3 **5. NOTICE TO CLASS MEMBERS, FLSA COLLECTIVE MEMBERS, AND PAGA**
4 **GROUP MEMBERS**

5 **5.1. Class Data for Settlement Administrator.** Within ten (10) business days of the entry of
6 a Preliminary Approval Order, Defendant shall provide to the Settlement Administrator the Settlement
7 Class List, which contains the following information: (1) name of each Member (2) the most current,
8 known mailing address of each Member; (3) the telephone number of each Member, if available; (4) the
9 social security number of each Member; (5) the total number of Pay Periods of each Member; and
10 (6) the dates of employment for each Member, as well as any other information needed to calculate the
11 Individual Class Settlement Payments, the FLSA Individual Settlement Payments, and the Individual
12 PAGA Payments.

13 The contact information is being provided confidentially, and the Settlement Administrator shall
14 treat the information as private and confidential and take all necessary precautions to maintain the
15 confidentiality of contact information of each Member. This information is to be used only to carry out
16 the Settlement Administrator's duties as specified in this Settlement Agreement. The Settlement
17 Administrator shall return the class data to Defendant or confirm its destruction upon completion of the
18 Settlement Administrator's duties in administering the Settlement.

19 **5.2. Mailing of Notice.** The Settlement Administrator shall mail the Notices of Settlement to
20 the Class Members, FLSA Collective Members, and PAGA Group Members within fifteen (15) calendar
21 days of the receipt of the Settlement Class List from Defendant. The Settlement Administrator shall send
22 the Notices of Settlement via First Class U.S. Mail, using the most current, known mailing address for
23 each Member based on information provided by Defendant. Upon receipt of the Settlement Class List,
24 the Settlement Administrator shall perform a search based on the National Change of Address Database
25 maintained by the United States Postal Service to update and correct any known or identifiable address
26 changes. The Notice for Class Members and PAGA Group Members shall be substantially in the form
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1 attached as **Exhibit A** to this Agreement, and the Notice for FLSA Collective Members shall be
2 substantially in the form attached as **Exhibit B** to this Agreement.

3 **5.3. Non-Delivered Notice Of Settlement:** Any mailing returned to the Settlement
4 Administrator as undeliverable shall be sent within five (5) calendar days via First Class U.S. Mail to the
5 forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator
6 shall attempt to determine the correct address using a computer-based skip-trace search, and it shall then
7 perform a single re-mailing via First Class U.S. Mail within 5 calendar days.

8 **5.4. Proof of Mailing.** At least five (5) calendar days prior to the Fairness Hearing, the
9 Settlement Administrator shall provide a declaration of due diligence and proof of mailing with regard
10 to mailing of the Notices of Settlement to Plaintiffs' Counsel and Defendant's Counsel, which they shall
11 in turn provide to the Court.

12 **6. OPTIONS TO RESPOND**

13 **6.1. Consideration Period for Class Members.** Class Members shall be provided forty-five
14 (45) calendar days to submit any request to be excluded or objection, following the postmark date of the
15 initial mailing of the Notice. Except as specifically provided herein, no request to be excluded or
16 objection that is postmarked beyond the Response Deadline shall be considered.

17 **6.2. Consideration Period for FLSA Collective Members.** FLSA Collective Members shall
18 be provided forty-five (45) calendar days to submit any objection, following the postmark date of the
19 initial mailing of the Notice. Except as specifically provided herein, no objection that is postmarked
20 beyond the Response Deadline shall be considered.

21 **6.3. Request for Exclusion and Opt Out Rights for Class Members.** Class Members shall
22 be given the opportunity to opt out of the Settlement.

23 **6.3.1 Opt Out Procedure for Class Members.** Class Members may opt out of the
24 Settlement by mailing to the Settlement Administrator a written request to be excluded. Any request to
25 be excluded must be postmarked by the Response Deadline. A valid request to be excluded must: (a)
26 state the case name and number of the Class Action Lawsuit; (b) provide the Class Member's name (and
27 former names, if any), current address, current telephone number, and last four digits of his or her Social
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Security number; and (c) clearly state that the Class Member wishes to be excluded from the Settlement. Any request to be excluded that does not include all of the required information or that is not submitted in a timely manner will be deemed null, void, and ineffective. If there is a dispute regarding the timeliness or validity of a request to be excluded, the Settlement Administrator shall make the determination, after consultation with Plaintiffs' Counsel and Defendant's Counsel.

6.3.2 Effect of Opt Out. Any Class Member who opts out of the Settlement may not object to the Settlement, shall not receive any Individual Settlement Payment, and shall not be bound by the applicable release of Released Class Claims provision in this Agreement. If a Class Member submits both a request to be excluded and an objection, the Class Member's request to be excluded will be valid and be deemed to invalidate the objection.

6.4. Objection Rights. Because the Class Members will be certified by the Court, only Class Members who do not opt out of the Settlement shall be entitled to object to the terms of the Settlement.

6.4.1 Objection Procedures. Class Members' objections to this Settlement Agreement could be made using the procedures set forth in the Notice of Settlement. Any objection should be sent to the Settlement Administrator and postmarked by the Response Deadline. An objection shall be deemed to be submitted as of the postmarked date. The written objection should contain: (1) the name and case number of the Class Action Lawsuit; (2) the full name and current address of the Class Member making the objection; and (3) the specific reason(s) for the objection. Class Members who submit an objection remain bound by this Settlement Agreement, including the applicable Released Class Claims provisions. Additionally, class members may appear at the final approval hearing and raise an objection.

6.5. Defendant's Right to Rescission. Defendant has the right, at its sole discretion, to rescind this Agreement if more than five percent (5%) of the Class Members opt out of the Settlement by submitting a timely and valid request to be excluded. If Defendant exercises the right to rescission, it shall be solely responsible for all Settlement Administration Costs incurred up to date of the rescission by the Administrator.

6.6. Notice and Opt In Procedure for FLSA Collective Members. Within fifteen (15) calendar days of the Settlement Administrator's receipt of the Settlement Class List, each FLSA

Collective Member will be mailed a Notice of Settlement (substantially in the form attached as **Exhibit B** to this Agreement). The Notice shall advise the FLSA Collective Members of the procedure for objecting to the settlement. The Notice shall also advise the FLSA Collective Members that should the Settlement obtain final approval, they will be able to opt into the FLSA Settlement by depositing or cashing a settlement check that will be mailed to them by the Administrator. Opt in and release language regarding the release of Released FLSA Claims will be printed on the FLSA settlement checks, with instructions that cashing the check constitutes consent under the FLSA to opt into the FLSA Collective Action. The language to be included will be substantially similar to the following:

CONSENT TO JOIN AND RELEASE FLSA CLAIMS:

“By signing and cashing or depositing this check, I consent to join the Fair Labor Standards Act (“FLSA”) claims in the lawsuit entitled *Sydney Elliott-Brand, et al. v. Kforce, Inc.*, pending in the Superior Court of the State of California for the County of Los Angeles, Case No. 20STCV49193, and I agree to be bound by the Settlement Agreement and the release of FLSA claims in that case.”

The deadline for FLSA Collective Members to cash checks will be one hundred and eighty (180) days from the date the checks are mailed by the Settlement Administrator. No later than ten (10) days after the deadline for FLSA Collective Members to cash the FLSA settlement check, the Settlement Administrator shall provide copies of all endorsed checks to Plaintiffs’ Counsel and Defendant’s Counsel.

6.6.1 Objection Procedure for FLSA Collective Members. FLSA Collective Members’ objections to this Settlement Agreement could be made using the procedures set forth in the Notice of Settlement. Any objection should be sent to the Settlement Administrator and postmarked by the Response Deadline. An objection shall be deemed to be submitted as of the postmarked date. The written objection should contain: (1) the name and case number of the Class Action Lawsuit; (2) the full name and current address of the Class Member making the objection; and (3) the specific reason(s) for the objection. Additionally, collective members may appear at the final approval hearing and raise an objection.

6.7. **Reminder Postcards.** Ninety (90) days, and again one hundred thirty-five (135) days, after first distributing settlement checks, the Settlement Administrator shall distribute reminder postcards via U.S. Mail to all FLSA Collective Members and Settlement Class Members who have yet to deposit or otherwise negotiate their settlement checks, reminding them of the deadline to do so.

6.8. **Notice to PAGA Group Members.** PAGA Group Members will be advised in the Notice of Settlement that they will not be able to opt out of settlement of the PAGA Action and Released PAGA Claims. The Notice of Settlement will inform them of the amount of their Individual PAGA Payment. Within twenty (20) calendar days of the Funding of the Gross Settlement Amount, PAGA Group Members will be sent a settlement check associated with their eligibility as PAGA Group Members. For PAGA Group Members who are also Settlement Class Members and who do not opt out, their settlement payments may be combined on a single check.

6.9. **Disputed Pay Periods on Notice of Settlement.** PAGA Group Members will have an opportunity to dispute the number of Pay Periods indicated on their Notice of Settlement. To do so, PAGA Group Members may produce, by no later than the Response Deadline, evidence to the Settlement Administrator showing that such information is inaccurate. The Settlement Administrator will decide the dispute. Defendant's records will be presumed correct, but the Settlement Administrator will evaluate the evidence submitted by PAGA Group Members and will make the final decision as to the merits of the dispute. All disputes will be decided within ten (10) business days of the Response Deadline.

6.10. **Proof of Class Members.** No later than sixty (60) calendar days after the initial mailing of the Notice of Settlement, the Settlement Administrator will prepare and submit a declaration attesting to (by number of relevant individuals), its mailing of the Notices of Settlement, its inability to deliver any mailing due to invalid addresses, and its receipt of any valid requests for exclusion and objections. Five (5) calendar days prior to the Fairness Hearing, the Settlement Administrator will prepare a supplemental declaration to submit to the Court, to indicate the number of any valid objections and requests for exclusion.

6.11. **Proof of FLSA Collective Members' Responses.** No later than ten (10) calendar days after the deadline for FLSA Collective Members to cash or deposit their FLSA settlement checks, the Settlement Administrator shall provide copies of all endorsed checks to Plaintiffs' Counsel and Defendant's Counsel.

6.12. **Filing of FLSA Collective Members' Endorsed Checks.** No later than fifteen (15) calendar days after the receipt of copies of all endorsed checks by FLSA Collective Members from the Settlement Administrator, Plaintiffs' Counsel shall file the copies of the endorsed checks with the Court, along with a list of the corresponding names of the FLSA Collective Members who endorsed their checks.

6.13. **Binding Effect of Settlement.** Although some Class Members and PAGA Group Members might not receive the Notice of Settlement, or timely submit a valid request for exclusion or objection, as provided under this Agreement, due to inability to locate their current address following the procedures set forth in this Agreement, such individuals shall nonetheless be bound by all of the terms of this Agreement and the Final Approval Order and Final Judgment.

7. RELEASES

7.1. **Release of Claims by Settlement Class Members, Settlement FLSA Collective Members, and PAGA Group Members.** Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs, all Class Members who do not submit a timely and valid request for exclusion (i.e., Settlement Class Members), and all FLSA Collective Members who timely cash or deposit their FLSA settlement checks (i.e. Settlement FLSA Collective Members), will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims and Released FLSA Claims. In addition, all PAGA Group Members will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

7.2. **General Release of Claims by Class Representatives.** In addition, upon the Effective Date and full funding of the Gross Settlement Amount, Class Representatives will be deemed to have fully released and discharged the Released Parties of and from all claims arising from their employment

with Defendant, separation of employment from Defendant, and any acts that have or could have been asserted in any legal action or proceeding against Defendant, whether known or unknown, arising under any federal, state, or local law, or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act, the Age Discrimination in Employment Act ("ADEA"), the Older Workers Benefits Protection Act ("OWBPA"), Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and any law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date on which the Settlement is executed. With respect to those claims released by Class Representatives in their individual capacity, Class Representatives acknowledge and waive any and all rights and benefits available under California Civil Code Section 1542, which provides:

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

Class Representatives acknowledge that they have read this Agreement in its entirety, including the above language from the California Civil Code Section 1542, and that they fully understand this Agreement. By executing this Agreement, as of the Effective Date, Class Representatives expressly waive any benefits and rights granted pursuant to California Civil Code Section 1542 or any statute, rule, or principle of common law or equity, in any jurisdiction, that is similar, comparable, or equivalent, in whole or in part, to California Civil Code Section 1542. Class Representatives acknowledge and agree that this knowing and voluntary waiver is an essential and material term of this Agreement, and the Agreement would not have been entered into without such a waiver.

Class Representatives further understand and agree that claims or facts in addition to or different from those which are now known or believed by them to exist may hereafter be discovered. It is Class Representatives' intention to settle fully and release all claims they now have against the Released Parties, whether known or unknown, suspected or unsuspected. The Enhancement Award to be paid to Class Representatives is specifically in exchange for the general release of the Released Parties from all claims, including those specified in this paragraph and a covenant not to sue the Released Parties. Notwithstanding the above, the general release by Class Representatives shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

7.3. Settlement Class Members, Settlement FLSA Collective Members, and PAGA Group Members' Acknowledgment. The Settlement Class Members, Settlement FLSA Collective Members, and PAGA Group Members acknowledge that they may hereafter discover facts or law different from, or in addition to, the facts or law they know or believe to exist with respect to the Released Claims. The Settlement Class Members, Settlement FLSA Collective Members, and PAGA Group Members nonetheless agree that this Agreement and the release of claims contained in paragraph 7.1 shall be and remain effective in all respects notwithstanding such different or additional facts or law regarding the Released Claims. These releases do not include any claims that cannot be waived as a matter of law, but the Settlement Class Members, Settlement FLSA Collective Members, and PAGA Group Members agree that they will not accept any monetary recovery or benefit from any proceedings relating to any such claims.

8. SETTLEMENT APPROVAL PROCEDURE

8.1. Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement. Upon execution of this Agreement, Plaintiffs shall promptly obtain a hearing date for Plaintiffs' Motion for Preliminary Approval of the Settlement, which Plaintiffs' Counsel will be responsible for drafting, and submit this Agreement to the Court in support of said motion. Plaintiffs' Counsel will provide Defendant's Counsel a draft of the Preliminary Approval Motion within fourteen

(14) calendar days of the execution of this Agreement. This motion shall apply to the Court for the entry of an order ("Preliminary Approval Order"), which shall seek the following:

- a. Conditionally certifying the Class and FLSA Collective for settlement purposes only;
- b. Granting Preliminary Approval of the Settlement;
- c. Preliminarily appointing Plaintiffs Sydney Elliott-Brand, Bernardo Buchsbaum, and Josie Meister as Class Representatives;
- d. Preliminarily appointing Plaintiffs' Counsel as counsel for the Class;
- e. Approving, as to form and content, the mutually agreed-upon and proposed Notices of Settlement to Class and PAGA Group Members and FLSA Collective Members by first class mail;
- f. Approving the manner and method for Class Members to request to opt out of the Settlement as contained herein and within the Notice of Settlement;
- g. Approving the manner and method for FLSA Collective Members to opt into the Settlement as contained herein and within the Notice of Settlement;
- h. Scheduling a Final Approval Hearing at which the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members, FLSA Collective Members, and PAGA Group Members.

This motion shall be accompanied by a signed declaration by Plaintiffs' Counsel discussing the risks of continued litigation and that the best interests of the Parties and Class Members, FLSA Collective Members, and PAGA Group Members are served by the terms of this Agreement.

Defendant's Counsel will provide comments on the draft Preliminary Approval Motion within five (5) days of its receipt of the draft. Defendant agrees not to oppose the Motion for Preliminary Approval of the Settlement consistent with this Settlement Agreement.

Concurrent with the filing of the motion for preliminary approval of the Settlement, Plaintiffs' Counsel shall notify the LWDA of the terms of this Settlement. Plaintiffs' Counsel also agrees to update

1 the LWDA with notice of the inclusive dates of this Settlement Agreement via an amended PAGA
2 notice as necessary.

3 **8.2. Effect of Failure to Obtain Preliminary Approval.** If this Settlement or a substantially
4 similar settlement mutually agreed to by the Parties is not preliminarily approved, the Actions shall
5 proceed as if no settlement had been attempted, unless the Parties jointly agree to seek reconsideration
6 of the ruling or Court approval of a renegotiated settlement. Defendant retains the right to contest
7 whether any aspect of the Actions should be maintained as a class, collective action, or representative
8 action, or to contest the merits of the claims being asserted by the Class Representatives, Class
9 Members, FLSA Collective Members, or PAGA Group Members in the Actions.

10 **8.3. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement.**
11 After the Response Deadline, and with the Court's permission, a Final Approval Hearing will be
12 conducted to determine whether Final Approval of the Settlement should be granted, along with the
13 amounts properly payable for (a) Class Settlement Payment; (b) FLSA Settlement Payment; (c) PAGA
14 Payment; (d) Attorneys' Fees; (e) Attorneys' Expenses; (f) Enhancement Awards; and (g) Settlement
15 Administration Costs. Plaintiffs' Counsel will be responsible for drafting the motion seeking Final
16 Approval of the Settlement. Plaintiffs' Counsel will provide Defendant's Counsel a draft of the Final
17 Approval Motion before the filing deadline for review and comment. By way of said motion, Plaintiffs
18 will apply for the entry of the mutually-agreed upon proposed order and judgment ("Final Approval
19 Order" and "Final Judgment"), which will provide for, in substantial part, the following:

- 20 a. Approval of the Settlement as fair, reasonable, and adequate, and directing consummation
21 of its terms and provisions;
- 22 b. Certification of the Settlement Class and FLSA Collective for settlement purposes only;
- 23 c. Approval of the application for Attorneys' Fees and Attorneys' Expenses to Plaintiffs'
24 Counsel;
- 25 d. Approval of the application for Enhancement Awards to Plaintiffs;
- 26 e. Directing Defendant to fund all amounts due under this Agreement and ordered by the
27 Court; and
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f. Entering judgment in the Actions barring and enjoining all Settlement Class Members and Settlement Collective Members from prosecuting the Released Class Claims and Released FLSA Claims, and PAGA Group Members from prosecuting the Released PAGA Claims against any of the Released Parties, while maintaining continuing jurisdiction, in conformity with California Rules of Court 3.769 and this Agreement.

8.4. **Motion for Attorneys' Fees and Attorneys' Expenses.** Concurrently with the Motion for Final Approval Order, Plaintiffs' Counsel shall file a motion for Court approval of Attorneys' Fees in an amount up to one-third of the Gross Settlement Amount (i.e., \$1,083,333.33), supported by adequate documentation by Plaintiffs' Counsel to support the amount of fees sought. Plaintiffs' Counsel shall also file a motion for Court approval of Attorneys' Expenses, supported by adequate documentation to explain the amount of costs sought. Defendant will not oppose the motions provided they are consistent with this Agreement. Defendant will not be required to support such a motion.

8.5. **Effect of Failure to Obtain Final Judgment.** In the event the Court fails to enter a final judgment in accordance with this Agreement, or such final judgment is vacated or reversed, the Actions shall proceed as if no settlement had been attempted, unless the Parties jointly agree to seek reconsideration or appellate review of the ruling or Court approval of a renegotiated settlement. Defendant retains the right to contest whether any aspect of the Actions should be maintained as a class, collective action, or representative action, or to contest the merits of the claims being asserted by the Class Representatives, Class Members, FLSA Collective Members, or PAGA Group Members in the Actions.

8.6. **Waiver of Appeal Rights.** By accepting this Settlement, and upon final approval of the settlement being granted, the Class Representatives and Class Counsel hereby waive any and all rights they may have to appeal any judgment, ruling, or order made by the Court in the Actions, including, without limitation, any order granting final approval of this Settlement or dismissing the Actions with prejudice. This includes all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, a motion for relief, and any extraordinary writ, and the Final Judgment therefore will become non-appealable at the time it is

entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken from the Final Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Final Judgment becomes final.

9. MISCELLANEOUS

9.1. **Termination or Rescission of Settlement.** Notwithstanding any other provision of this Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to rescind the Settlement within fifteen (15) calendar days after expiration of the Response Deadline if five percent (5%) or more of the Class Members opt out of this Settlement. Defendant must exercise this right of rescission in writing provided to Plaintiffs' Counsel within fifteen (15) calendar days of the Response Deadline. If Defendant exercises this option, Defendant shall pay any Settlement Administration Costs owed to the Settlement Administrator incurred up to that date.

9.2. **Effects of Termination of the Settlement.** Termination of the Settlement Agreement shall have the following effects:

- a. This Agreement shall be void and shall have no force or effect, and no Party shall be bound by any of its terms;
- b. In the event this Agreement is terminated, Defendant shall have no obligation to make any payments to any Party, Class Member, FLSA Collective Member, PAGA Group Member, or attorney, except that the terminating Party shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the Settlement has been terminated;
- c. The Preliminary Approval Order shall be deemed vacated;
- d. This Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Actions prior to the execution of the Memorandum of Understanding;

e. Neither this Agreement, nor any ancillary documents, actions, statements or filings in furtherance of the Settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Actions or any other action for any purpose whatsoever; and

f. Any documents generated to bring the Settlement into effect, will be null and void, and any order or judgment entered by the Court in furtherance of this Settlement will likewise be treated as void from the beginning.

9.3. **Escalator Clause:** For the FLSA Settlement Payment, in the event it is determined that the actual number of Pay Periods worked by the FLSA Collective Members exceeds 18,893 Pay Periods by more than ten percent (10%), Defendant, in its sole discretion, will elect to either: (1) pay a proportional amount in addition to the FLSA Settlement Payment for each additional pay period that exceeds 10% above 18,893 Pay Periods; or (2) cap the FLSA Settlement Payment at 18,893 Pay Periods plus 10%. For the Class Settlement Payment for Class Members, in the event it is determined that the actual number of Pay Periods worked by Class Members exceeds 8,022 Pay Periods by more than ten percent (10%), Defendant, in its sole discretion, will elect to either: (1) pay a proportional amount in addition to the Class Settlement Payment for each additional pay period that exceeds 10% above 8,022 Pay Periods; or (2) cap the Individual Settlement Payment at 8,022 Pay Periods plus 10%.

9.4. **Continued Jurisdiction.** After entry of judgment pursuant to the Settlement, the Court will have continuing jurisdiction pursuant to Rule 3.769 of the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement. The Parties agree to adopt and apply Rule 3.769(h) of the California Rules of Court requiring entry of judgment.

9.5. **Interim Stay of Proceedings.** The Parties agree to refrain from further litigation in the Actions, except such proceedings necessary to implement and to obtain a Preliminary Approval Order and Final Approval Order of the terms of the Agreement. If the Settlement is not finally approved, the Parties agree that they will revert to their positions in the lawsuits prior to the time the Settlement was

1 reached, and no agreements set forth in this Agreement will be admissible in any future proceeding in
2 this or any other action.

3 **9.6. Parties' Authority.** The signatories hereto represent that they are fully authorized to
4 enter into this Agreement and are fully authorized to bind the Parties to all terms stated herein. It is
5 agreed that Class Members, FLSA Collective Members, and PAGA Group Members are so numerous
6 that it is impossible or impractical to have each member execute this Agreement. It is agreed that this
7 Agreement may be executed on behalf of Class Members, FLSA Collective Members, and PAGA Group
8 Members by Class Representatives and Plaintiffs' Counsel.

9 **9.7. Entire Agreement.** This Agreement, which includes the Definitions, Recitals, and all
10 Exhibits attached hereto, constitutes the entire agreement between the Parties with regard to the subject
11 matter contained herein, and all prior and contemporaneous negotiations and understandings between
12 the Parties shall be deemed merged into this Agreement.

13 **9.8. No Publicity.** Neither the Parties nor their counsel shall publicize, or cause to be
14 publicized, directly or indirectly, the discussions resulting in or the existence of this Settlement or its
15 terms, in any type of mass media, including, but not limited to, speeches, press conferences, press
16 releases, interviews, television or radio broadcasts, newspapers, messages on the Internet, Facebook,
17 Twitter or any other social media, the Parties' counsels' website or any other website. Breach of this
18 provision by Class Representatives or Plaintiffs' Counsel shall entitle Defendant, in the exercise of its
19 sole discretion, to nullify the Settlement at any time before final approval by the Court. Should Class
20 Representatives at any time breach this provision, Class Representatives shall forfeit to Defendant the
21 full amount of the Enhancement Awards. Without limitation by the foregoing, Defendant also may
22 enforce this provision through an action for injunctive relief. Class Representatives waive any obligation
23 by Defendant to file a bond in connection with any such action. Breach of this provision by Defendant
24 or its counsel shall sever this paragraph rendering this paragraph null and void, while the rest of this
25 Agreement shall survive and remain in full force and effect. Nothing in this paragraph shall prohibit
26 Plaintiffs' Counsel from referring to the Actions and this Settlement in court filings. Likewise, nothing
27 in this paragraph shall prohibit Plaintiffs' Counsel from speaking with Class Representatives, Class
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Members, FLSA Collective Members, and/or PAGA Group Members about this Settlement to the fullest extent necessary to meet their ethical obligations as Plaintiffs' Counsel.

9.9. **Arm's Length Transaction; Materiality of Terms.** The Parties have arrived at this Agreement as a result of arm's length negotiations. Except as otherwise stated in this Agreement, all terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement.

9.10. **Counterparts.** This Agreement may be executed in 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 signed Agreement, which shall be binding upon and effective as to all Parties.

9.11. **Facsimile or Scanned Signatures.** Any party may sign and deliver this Agreement by signing on the designated signature block and transmitting that signature page via facsimile or as an attachment to an e-mail to counsel for the other party. Any signature made and transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party who transmits the signature page.

9.12. **Binding Effect.** This Agreement shall be binding upon the Parties and with respect to the Class Representatives, Class Members, FLSA Collective Members, and PAGA Group Members their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys, and assigns.

9.13. **Waivers and Modifications to Be in Writing.** No waiver, modification, or amendment of the terms of this Agreement, whether purportedly made before or after the Court's final approval of this Agreement, shall be valid or binding, unless in writing, signed by or on behalf of all Parties by Plaintiffs' Counsel and Defendant's Counsel and then only to the extent set forth in such written waiver, modification, or amendment, subject to any required Court approval. Any failure by any Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this

1 Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon
2 the specific performance of any and all of the provisions of this Agreement. The time periods and dates
3 provided in this Agreement with respect to giving of notices and hearings are subject to Court approval
4 and modification by the Court or by written stipulation of Plaintiffs' Counsel and Defendant's Counsel.

5 9.14. **Construction.** The determination of the terms and conditions of this Agreement has been
6 by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and
7 the terms and conditions of this Agreement are not intended to be, and shall not be, construed against
8 any party by virtue of draftsmanship.

9 9.15. **Exhibits Incorporated by Reference.** The terms of this Agreement include the terms set
10 forth in any attached exhibit, which are incorporated by this reference as though fully set forth herein.
11 Any exhibit to this Agreement is an integral part of the Settlement.

12 9.16. **Captions.** The captions or headings of the sections and paragraphs of this Agreement
13 have been inserted for convenience of reference only and shall have no effect upon the construction or
14 interpretation of any part of this Agreement.

15 9.17. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid,
16 the Parties agree that the Court shall first attempt to construe the provisions valid to the fullest extent
17 possible consistent with applicable precedents so as to render all provisions of this Agreement valid and
18 enforceable.

19 9.18. **Further Acts and Cooperation Between the Parties.** The Parties shall cooperate fully
20 with each other and shall use their best efforts to obtain the Court's approval of this Agreement and all
21 of its terms. Each of the Parties, upon the request of another, agrees to perform such further acts and to
22 execute and to deliver such other documents as are reasonably necessary to carry out the provisions of
23 this Agreement.

24 9.19. **No Prior Assignments or Undisclosed Liens.** The Class Representatives and Class
25 Counsel represent and warrant that they have not assigned, transferred, conveyed, or otherwise disposed
26 of, or purported to assign, transfer, convey, or otherwise dispose of, any Released Claims, or the
27 attorneys' fees and costs to be paid pursuant to this Agreement. The Class Representatives and
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1 Plaintiffs' Counsel further represent and warrant that there are not any liens or claims against any of the
2 amounts to be paid by Defendant pursuant to this Agreement. The Class Representatives and Plaintiff's
3 Counsel agree to defend, to indemnify, and to hold Defendant harmless from any liability, losses,
4 claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach of
5 these representations or from any lien or assignment.

6 9.20. **Waiver of Right to Object by the Class Representatives.** The Class Representatives
7 agree to sign this Agreement, and by signing this Agreement, the Class Representatives are thereby
8 bound by the terms of this Agreement. The Class Representatives further agree that they shall not object
9 to any of the terms of this Agreement.

10 9.21. **No Solicitation of Requests for Exclusion or Objections.** The Parties further represent
11 and warrant that they have not and will not solicit, encourage, or assist in any fashion any effort by any
12 entity or person to object to or to seek exclusion from the Settlement set forth in this Agreement.

13 9.22. **Discovery of Confidential Documents and Information.** Plaintiffs' Counsel agree that
14 they will destroy all confidential documents and information provided to them by Defendant within sixty
15 (60) calendar days after the completion of the administration of the Settlement. Plaintiffs' Counsel
16 further agree that none of the documents and information provided to them by Defendant shall be used
17 for any purpose other than Settlement of the Actions.

18 9.23. **Disputes.** If the Parties have a dispute with regard to the language of this Agreement,
19 they agree to first attempt to resolve the dispute informally through good faith negotiations, but if those
20 efforts are unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the
21 mediator, and all parties will bear their own fees and costs.

22 9.24. **Representation by Counsel.** The Parties acknowledge that Class Representatives have
23 been represented by counsel throughout all negotiations that preceded the execution of this Settlement
24 Agreement, and that this Agreement has been executed with the consent and advice of counsel, and
25 reviewed in full.

1 **9.25. Governing Law.** This Settlement and Agreement was made and entered into in the State
2 of California. All terms of this Agreement shall be governed by and interpreted according to the
3 substantive laws of the State of California and the United States of America as applicable.

4 **9.26. Papers to Be Filed With the Court.** All papers to be filed with the Court by Defendant
5 or Plaintiffs' Counsel in connection with this Agreement shall be submitted to the other Party at least
6 five business days prior to filing for review.

7 **9.27. All Terms Subject to Final Court Approval.** All amounts and procedures described in
8 this Agreement herein will be subject to final Court approval.

9 **9.28. Final Judgment.** The Parties shall provide the Settlement Administrator with a copy of
10 the Final Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final
11 Judgment on its website within three (3) business days of receipt. No individualized notice to the Class
12 will be required.

13 **9.29. Integration Clause.** This Agreement contains the entire agreement between the Parties
14 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous
15 agreements, understandings, representations, and statements, whether oral or written and whether by a
16 Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in
17 writing.

18 **IN WITNESS WHEREOF,** the Parties hereto knowingly and voluntarily executed this Joint
19 Stipulation of Settlement for Class Action, Collective Action, and Representative Action between
20 Plaintiffs and Defendant:

21 ///

22 ///

23 ///

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IT IS SO AGREED AND STIPULATED:

Dated: Jun 15, 2022, 2022

KFORCE INC.

By: David Kelly
David Kelly (Jun 15, 2022 15:51 EDT)

David Kelly
Chief Financial Officer

Dated: 6-15-22, 2022

SEYFARTH SHAW LLP

By: Justin Curley

Christian J. Rowley
Justin T. Curley

Attorneys for Defendant KFORCE INC.

Dated: 6/14/2022, 2022

PLAINTIFF SYDNEY ELLIOTT-BRAND

By: Sydney Elliott-Brand
Sydney Elliott-Brand

Dated: 6/14/2022, 2022

PLAINTIFF BERNARDO BUCHSBAUM

By: Bernardo Buchsbaum
Bernardo Buchsbaum

Dated: 6/14/2022, 2022

PLAINTIFF JOSIE MEISTER

By: Josie Meister
Josie Meister

Dated: 6/14/2022, 2022

LEBE LAW, APLC

By: Jonathan M. Lebe
Jonathan M. Lebe

Attorneys for Plaintiffs SYDNEY ELLIOTT-BRAND,
BERNARDO BUCHSBAUM, JOSIE MEISTER, and on
behalf of all others similarly situated

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