

Andrea Rosenkranz, Esq. (State Bar No. 301559)
arosenkranz@ohaganmeyer.com

O'HAGAN MEYER
 3200 Park Center Drive, Suite 700
 Costa Mesa, CA 92626
 Telephone: (949) 942-8500
 Facsimile: (949) 942-8510

Attorneys for Defendants,
 TCI INVESTMENT GROUP, INC., BRIGHTON-BEST
 INTERNATIONAL, INC., and TA CHEN INTERNATIONAL, INC.

SOLOUKI | SAVOY, LLP
 SHOHAM J. SOLOUKI (SBN 278538)
 GRANT JOSEPH SAVOY (SBN 284077)
 316 W. 2nd Street, Suite 1200
 Los Angeles, California 90012
 Telephone: (213) 814-4940
 Facsimile: (213) 814-2550

Attorneys for Plaintiff,
 MARISOL HUERTA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

MARISOL HUERTA, an individual and class
 representative on behalf of herself and all other
 similarly situated non-exempt former and current
 employees,

Plaintiff,

vs.

TCI INVESTMENT GROUP, INC., a California
 Corporation; BRIGHTON-BEST
 INTERNATIONAL, INC., a California
 Corporation; TA CHEN INTERNATIONAL,
 INC., a California Corporation; GRACE CHAO,
 an individual; JOHNNY HSIEH, an individual;
 JUN XU, an individually; and DOES 1 through
 100, inclusive,

Defendants.

Case No.: 22STCV14084

CLASS & REPRESENTATIVE PAGA ACTION

SECOND AMENDED JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE OF CLAIMS

*[Assigned for All Purposes to the Hon.
 Elihu Berle; Dept. SS-6]*

Complaint Filed: April 26, 2022
 FAC: July 26, 2022
 SAC: July 7, 2023
 Trial Date: Not Yet Set

1 This Joint Stipulation of Class Action Settlement and Release of Claims (“Settlement” or
2 “Agreement”) is made and entered into by and between Plaintiff MARISOL HUERTA (“Plaintiff”
3 or “Class Representative”), individually and on behalf of all putative class members, and
4 Defendants TCI INVESTMENT GROUP, INC. (“TIG”), BRIGHT-BEST INTERNATIONAL,
5 INC. (“BBI”), AND TA CHEN INTERNATIONAL, INC. (“TCI”) (TIG, BBI, and TCI are
6 collectively, “Defendants”). Plaintiff and Defendants are collectively referred to herein as “the
7 Parties.”

8 **I. DEFINITIONS**

9 The following definitions are applicable to this Settlement, in addition to other terms defined
10 elsewhere in this Settlement:

11 1. “Action” shall mean the operative Complaint of the civil action initially commenced
12 on April 26, 2022, filed and maintained by Plaintiff against Defendants in the Superior Court of
13 California, County of Los Angeles, Case No. 22STCV1404.

14 2. “Class” shall mean all hourly-paid, non-exempt employees who, during the Class
15 Period, have previously been or currently are employed in California by Defendants, as an hourly-
16 paid, non-exempt employee. “Class Member” shall mean an individual who is a member of the
17 Class (or if any such person is incompetent, deceased, or unavailable due to military service, the
18 person’s legal representative or successor in interest evidenced by reasonable verification).

19 3. “Class Counsel” shall mean the attorneys representing Plaintiff in the Action,
20 Shoham J. Solouki, Esq. and Grant Joseph Savoy, Esq. of Solouki | Savoy, LLP.

21 4. “Class Counsel Fees Payment” shall mean one-third (1/3) of the Maximum
22 Settlement Amount (currently estimated to be Four Hundred and Sixty-Six Thousand, Six Hundred
23 and Sixty-Six Dollars and Zero Cents (\$466,666.00)) subject to approval by the Superior Court as
24 Class Counsel’s attorneys’ fees incurred in connection with the Action, including fees incurred in
25 pre-filing investigation, filing of the Action, and all related litigation activities, this Settlement, and
26 all post-Settlement compliance procedures.

27 5. “Class Counsel Litigation Expenses Payment” shall mean the actual litigation
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1 expenses and/or costs expended by Class Counsel subject to approval by the Superior Court
2 incurred in connection with the Action, including pre-filing investigation, filing of the Action, and
3 all related litigation activities, this Settlement, and all post-Settlement compliance procedures. Class
4 Counsel's expenses are not to exceed Forty Thousand Dollars and Zero Cents (\$40,000.00).

5 6. "Class Notice" shall mean the Notice of Proposed Settlement, Preliminary Approval
6 of Settlement, and Hearing Date for Final Court Approval, a sample of which is attached hereto as
7 Exhibit "A". The Class Notice shall further contain (i) a Class Member's first and last name, (ii)
8 last known address, (iii) the Class Member's Individual Workweeks, (iv) the PAGA Group
9 Member's Individual Pay Periods, if applicable; (v) the Class Member's estimated amount of the
10 Settlement Share; and (vi) the PAGA Group Member's estimated PAGA Payment Share, if
11 applicable. The Class Notice shall also provide the Class Members with instructions on how to opt-
12 out of and/or object to the Settlement.

13 7. "Class Period" shall mean the period of time from April 26, 2018, through August
14 10, 2023.

15 8. "Class Representative Payment" shall mean the special payment made to Plaintiff in
16 his capacity as Class Representative to compensate him for prosecuting the Action, and performing
17 work in support of the Action, in the amount of Ten Thousand Dollars and Zero Cents
18 (\$10,000.00), subject to approval by the Superior Court.

19 9. "Defense Counsel" shall mean the attorney representing Defendants in the Action,
20 Andrea Rosenkranz, Esq. of O'Hagan Meyer.

21 10. "Effective Date" shall mean the first business day following the last of the following
22 occurrences: (i) if no Class Member both objects and also files either a timely motion to intervene
23 and/or timely motion to vacate the judgment, then forty-five (45) days following the date the Court
24 enters an order granting Final Approval of the Settlement; (ii) if a Class Member both objects and
25 either files a timely motion to intervene or timely motion to vacate the judgment, then sixty-one
26 (61) days following the date the Court enters an order granting final approval, assuming no appeal is
27 filed; or (iii) if a Class Member both objects and also files a timely motion to intervene or files a
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1 motion to vacate the Judgment and also files a timely appeal, then the date of final resolution of that
2 appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and
3 complete judicial approval of the Settlement in its entirety, with no further challenge to the
4 Settlement being possible. The occurrence of the Effective Date is a prerequisite to any obligation
5 of Defendants to pay any funds into the Settlement Account.

6 11. "Employer's Payroll Taxes" shall mean Defendants' share of all payroll taxes
7 payable to any and all government agencies incurred for any payments of Settlement Shares to
8 Participating Class Members pursuant to this Settlement. Defendants' payment of the normal
9 employer's share of payroll taxes will be made separately and shall not come from the Maximum
10 Settlement Amount.

11 12. "Final Approval Hearing" shall mean the hearing to be conducted by the Superior
12 Court to determine whether to finally approve and implement the terms of this Settlement.

13 13. "Individual Pay Periods" shall mean the number of Pay Periods for an individual
14 PAGA Group Member.

15 14. "Individual Workweeks" shall mean the number of Workweeks for an individual
16 Class Member.

17 15. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court
18 that the Parties anticipate will be entered following a Final Approval Hearing on the Settlement in
19 this Action.

20 16. "LWDA Payment" shall mean the payment to the California Labor and Workforce
21 Development Agency ("LWDA") constituting seventy-five percent (75%) of the value assigned to
22 the claim for penalties under the California Labor Code Private Attorneys General Act, California
23 Labor Code Section 2698, *et seq.* ("PAGA"). Specifically, Thirty-Seven Thousand, Five Hundred
24 Dollars and Zero Cents (\$37,500.00), which shall constitute the LWDA's seventy-five percent
25 (75%) share of Fifty Thousand Dollars and Zero Cents (\$50,000.00) in civil penalties paid under
26 this Settlement. The remaining Twelve Thousand, Five Hundred Dollars and Zero Cents
27 (\$12,500.00) in civil penalties shall be distributed on a *pro rata* basis based upon the number of pay
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1 periods worked by each PAGA Group Member (“PAGA Payment”).

2 17. “Maximum Settlement Amount” shall mean the maximum settlement amount of One
3 Million, Four Hundred Thousand Dollars and Zero Cents (\$1,400,000.00) payable by Defendants
4 as provided by this Agreement, unless that amount is increased pursuant to Paragraph 18 below,
5 exclusive of the normal employer’s share of any payroll taxes attributable to the Settlement Share
6 payments allocated to wages. TIG will responsible for 20% of the Maximum Settlement Amount
7 (currently estimated to be Two Hundred and Eighty Thousand Dollars and Zero Cents
8 (\$280,000.00)), BBI will be responsible for 40% of the Maximum Settlement Amount (currently
9 estimated to be Five Hundred and Sixty Thousand Dollars and Zero Cents (\$560,000.00)), and TCI
10 will be responsible for 40% of the Maximum Settlement Amount (currently estimated to be Five
11 Hundred and Sixty Thousand Dollars and Zero Cents (\$560,000.00)). Defendants’ payment of the
12 normal employer’s share of payroll taxes will be made separately, according to each Defendants’
13 agreed upon proportionate share of the Maximum Settlement Amount, and shall not come from the
14 Maximum Settlement Amount.

15 18. Defendants represents that as of April 6, 2023, the number of workweeks worked
16 by Class Members during the Class Period is approximately 58,752. If it is determined that the
17 workweeks through August 10, 2023, exceeds 64,628 (58,752 plus 10% of 58,752), then
18 Defendants shall increase the Net Settlement Amount by an amount determined by the
19 following formula: $[\text{Actual Number of Workweeks} - 64,628] \div 64,628 \times \text{Net Settlement}$
20 Amount, As of August 10, 2023, Defendants represent that there are 61,758 workweeks during
21 the Class Period.

22 19. “Net Settlement Amount” shall mean the Maximum Settlement Amount, less (i) the
23 Class Representative Payment approved by the Superior Court; (ii) the Class Counsel Fees Payment
24 approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment approved by
25 the Superior Court; (iv) the LWDA Payment approved by the Superior Court; (v) the PAGA
26 Payment approved by the Superior Court; (vi) the Settlement Administrator Payment approved by
27 the Superior Court; and (vii) any other fees or expenses (other than Class Counsel Fees Payment
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1 and Class Counsel Litigation Expenses Payment) incurred in implementing the terms and conditions
2 of this Agreement as approved by the Superior Court.

3 20. "Non-Participating Class Member" shall mean a Class Member who submits a
4 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
5 provided in the Class Notice.

6 21. "PAGA Group" mean all hourly-paid, non-exempt employees who, during the
7 PAGA Period, have previously been or currently are employed in California by Defendants.
8 "PAGA Group Member" shall mean an individual who is a member of the PAGA Group (or if any
9 such person is incompetent, deceased, or unavailable due to military service, the person's legal
10 representative or successor in interest evidenced by reasonable verification).

11 22. "PAGA Payment Share" shall mean the value of each PAGA Group Member's share
12 of the PAGA Payment as provided by this Agreement.

13 23. "PAGA Period" shall mean the period of time from July 29, 2019, through August
14 10, 2023.

15 24. "Participating Class Member" shall mean all Class Members who have not submitted
16 a complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
17 provided in the Class Notice.

18 25. "Pay Period" shall mean any pay period in which a Class Member actually received
19 payment from Defendants as an hourly-paid, non-exempt employee.

20 26. "Preliminary Approval" shall mean the Superior Court's preliminary approval of the
21 Settlement without material change that the Parties anticipate will be made following submission of
22 this Agreement to the Court.

23 27. "Settlement Administrator" shall mean Phoenix Settlement Administrators proposed
24 by the Parties and appointed by the Superior Court to administer the Settlement.

25 28. "Settlement Administrator Payment" shall mean the payment to the Settlement
26 Administrator for its fees and expenses in administering this Settlement.

27 29. "Settlement Share" shall mean the value of each Participating Class Member's share
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1 of the Net Settlement Amount as provided by this Agreement.

2 30. "Superior Court" shall mean the Superior Court of California for the County of Los
3 Angeles.

4 31. "Workweek" shall mean any week in which a Class Member actually performed paid
5 work for Defendants during the Class Period as an hourly-paid, non-exempt employee.

6 **II. RECITALS**

7 32. On July 29, 2020, Class Counsel, on behalf of Plaintiff and the PAGA Group, gave
8 written notice to the Labor Workforce and Development Agency ("LWDA") of the Labor Code
9 violations Defendants are alleged to have violated ("LWDA Exhaustion Letter").

10 33. On April 26, 2022, Plaintiff filed a Class Action Complaint against Defendants in the
11 Los Angeles County Superior Court, Case No. 22STCV1404. In her Complaint, Plaintiff pled
12 causes of action for: (1) Failure to Provide Meal Periods or Pay Meal Period Premiums; (2) Failure
13 to Provide Rest Breaks or Pay Rest Break Premiums; (3) Failure to Pay Overtime Wages; (4)
14 Failure to Pay Minimum Wages; (5) Failure to Timely Pay Wages; (6) Failure to Timely Pay Final
15 Wages; (7) Failure to Maintain Required Records; (8) Failure to Provide Accurate Itemized Wage
16 Statements; (9) Failure to Indemnify Necessary Business Expenses; (10) Unfair Business Practices;
17 and (11) Civil Penalties pursuant to the Private Attorneys' General Act of 2004 ("PAGA").

18 34. On July 26, 2022, Plaintiff amended her Complaint to dismiss her fifth cause of
19 action for Failure to Timely Pay Wages, her seventh cause of action for Failure to Maintain
20 Required Records, and eleventh cause of action for Civil Penalties pursuant to PAGA.

21 35. On July 7, 2023, Plaintiff amended her Complaint to reallege causes of action for
22 Failure to Timely Pay Wages and Civil Penalties pursuant to PAGA.

23 36. Defendants deny and continue to deny all of Plaintiff's material allegations.
24 Specifically, Defendants contend (1) they did not fail to pay the Class the minimum, straight time,
25 regular rate, and/or overtime wages; (2) they paid the Class for all hours worked; (3) they provided
26 the Class with all meal periods according to law; (4) they provided the Class with all rest periods
27 according to law; (5) they did not fail to timely pay the Class wages due and owing during
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1 employment and/or upon separation; (6) they provided the Class with accurate itemized wage
2 statements, consistent with Labor Code Section 226; (7) they properly maintained all payroll
3 records; (8) they reimbursed employees for all necessary business expenses; (9) they did not violate
4 Business & Professions Code Section 17200, *et seq.*; (10) the PAGA Group is not entitled to
5 penalties under PAGA; and (11) Defendants are not liable for damages, including unpaid wages,
6 liquidated damages, statutory penalties, attorneys' fees, or costs of litigation to the Class.

7 37. In connection with the Action, and in order to work toward a mediated resolution
8 without the time and expense of formal discovery, the Parties produced voluminous documents and
9 data (including, by Defendants, human resources documents and policies, time records, and payroll
10 data during the Class Period) which were reviewed, investigated, and analyzed by Class Counsel.

11 38. On April 12, 2023, the Parties in Action participated in a full day of mediation before
12 an experienced employment and class action mediator, Todd Smith, Esq. (the "Mediation") and the
13 Parties reached a settlement at the Maximum Settlement Amount.

14 39. The Settlement described in this Agreement represents a compromise and settlement
15 of highly disputed claims. Nothing in this Settlement is intended or will be construed as an
16 admission by Defendants that Plaintiff's claims in the Action have any merit or that they have any
17 liability to Plaintiff, the Class, the PAGA Group or the State on those claims, or as an admission by
18 Plaintiff that Defendants' defenses in Action have any merit. This Settlement is intended to fully,
19 finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to
20 the terms and conditions set forth in this Settlement.

21 40. Based on its own thorough, independent investigation and evaluation of this case,
22 Class Counsel is of the opinion that the Settlement of this Action with Defendants for the
23 consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the
24 best interest of the Class in light of all known facts and circumstances, including the risk of
25 significant costs and delay, the risk of non-certification of the Class, the defenses asserted by
26 Defendants including the risks of adverse determinations on the merits and numerous potential
27 appellate issues. Although Defendants contend that they have no liability in the Action, Defense
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Counsel shares Class Counsel's belief that the Settlement represents a fair and adequate settlement given the respective risks associated with the case.

41. Based on the foregoing Recitals, the Parties agree as follows:

III. PROCEDURE FOR APPROVING SETTLEMENT

42. **Motion for Preliminary Approval of Settlement by the Superior Court.** Plaintiff will move the Superior Court for an order granting Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing no earlier than 120 days from the date of the order granting Preliminary Approval of the Settlement, and approving the Class Notice (attached as Exhibit "A" to this Stipulation) ("Motion for Preliminary Approval"). Any unresolved disagreement among the Parties concerning the Class Notice or other documents necessary to implement the Settlement will be referred first to Todd Smith, Esq., and if no resolution is reached, then to the Superior Court.

43. At the hearing on the Motion for Preliminary Approval, the Parties anticipate that they will jointly appear, support the granting of the Motion for Preliminary Approval, and obtain an order granting Preliminary Approval, granting approval of the Class Notice, and setting a date for the Final Approval Hearing no earlier than 120 days from the date of the order granting Preliminary Approval.

44. Should the Superior Court require any amendments to this Agreement or the Motion for Preliminary Approval, the Parties agree to work jointly to resolve any issues in order to secure the Superior Court's Preliminary Approval.

45. Should the Superior Court decline to preliminarily approve any material aspects of the Settlement, the Settlement will be null and void and the Parties will have no further obligations under it. In such event, the Parties shall be returned to their respective positions as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed.

46. **Class Notice.** After the Superior Court enters its order granting Preliminary Approval, every Class Member will be provided with the Class Notice (in English and Spanish) which will include the Class Notice completed to reflect the order granting Preliminary Approval of

1 the Settlement and the Class Member's information as follows:

2 (a) Within twenty-one (21) days after the Motion for Preliminary Approval is
3 granted, Defendants will provide to the Settlement Administrator the "Class Members' Data,"
4 which shall consist of an electronic database containing (i) each Class Member's first and last name,
5 (ii) last known mailing address, (iii) the Class Member's Social Security number or Tax ID, (iv) the
6 Class Member's total number of Individual Workweeks, and (v) the Class/PAGA Group Members'
7 total number of Individual Pay Periods, if applicable. If any or all of the Class Members' Data are
8 unavailable to Defendants, Defendants will so inform Class Counsel prior to the date on which
9 Defendants are required to submit the Class Members' Data to the Settlement Administrator and the
10 Parties will make their best efforts to reconstruct or otherwise agree upon the Class Members' Data
11 prior to when it must be submitted to the Settlement Administrator. If the Parties are unable to
12 agree, the dispute will be resolved by the Settlement Administrator as provided in Paragraph 49.
13 This information will otherwise remain confidential and will not be disclosed to anyone, except as
14 required to applicable taxing authorities, as required to carry out the reasonable efforts to identify
15 Class Member information as described in Paragraph 46(c), pursuant to Defendants' express written
16 authorization, or by order of the Superior Court.

17 (b) Within seven (7) days after receiving the Class Members' Data, or as soon
18 thereafter as it is able to do so, the Settlement Administrator will mail the Class Notice to all
19 identified Class Members via first-class U.S. Mail using the mailing address information provided
20 by Defendants, unless modified by any updated address information that the Settlement
21 Administrator obtains in the course of administration of the Settlement.

22 (c) If a Class Notice is returned by the U.S. Postal Service because of an
23 incorrect address, the Settlement Administrator will promptly, and not later than five (5) days from
24 receipt of the returned packet, search for a more current address for the Class Member and re-mail
25 the Class Notice to the Class Member. The Settlement Administrator will use the Class Members'
26 Data and otherwise work with Defense Counsel or utilize its own resources such as skip traces to
27 find a more current address. The Settlement Administrator will be responsible for taking reasonable
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1 steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing
2 address of any Class Member for whom a Class Notice is returned by the U.S. Postal Service.
3 These reasonable steps shall include the tracking of all undelivered mail; performing address
4 searches for all mail returned without a forwarding address; and promptly re-mailing to Class
5 Members for whom new addresses are found. Any such Class Members who failed to receive a
6 Class Notice, or who were subject to a re-mailing of the Class Notice as described herein shall be
7 given an additional fourteen (14) days to opt out or object to the Settlement.

8 (d) The Settlement Administrator will inform Class Counsel and Defense
9 Counsel of the number of returned Class Notices it receives and Class Notices re-mailed in a
10 weekly status report.

11 (e) Not later than sixteen (16) court days prior to the Final Approval Hearing, the
12 Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its
13 compliance with its obligations under this Settlement. The declaration will be filed with the papers
14 submitted with the Motion for Final Approval. Prior to the Final Approval Hearing, the Settlement
15 Administrator will supplement its declaration of due diligence if any material changes occur from
16 the date of the filing of its prior declaration.

17 **47. Participating Class Members; Requests for Exclusion from Class Settlement;**
18 **and Objections to Settlement.** Class Members may submit requests to be excluded from the effect
19 of the Settlement; or objections to the Settlement, pursuant to the following procedures:

20 (a) **Participating Class Members.** Each Class Member shall be deemed to be a
21 Participating Class Member unless they submit a complete, timely, and valid request to be excluded
22 from the effect of the Settlement as provided below. All Participating Class Members shall be
23 bound by the provisions and releases contained in this Settlement.

24 (b) **Request for Exclusion from Settlement.** Class Members who wish to
25 exclude themselves from the Settlement (“opt out” of the Settlement) must submit to the Settlement
26 Administrator, not later than forty-five (45) days after the date that the Settlement Administrator
27 first mails the Class Notices, an Exclusion Request (“the Exclusion Period”). Exclusion Requests
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1 may be submitted to the Settlement Administrator via U.S. Mail (or similar method), fax, or e-mail.
2 Class Members must complete, sign, date, and timely return an Exclusion Request to the Settlement
3 Administrator to exclude themselves from the Settlement, setting forth their (i) name, (ii) address,
4 and (iii) the following statement or a similar statement: "I wish to exclude myself from the
5 settlement reached in the matter of *Huerta v. TCI Investment Group, Inc., et. al.* I understand that
6 by excluding myself, I will not receive any money from the settlement reached in this matter." A
7 Class Member who does not complete and submit a valid and timely Exclusion Request in the
8 manner and by the conclusion of the Exclusion Period will remain a Participating Class Member
9 and, if the Court approves the Settlement, will be bound by all terms and conditions of the
10 Settlement and by the Judgment. A Class Member who timely submits a valid Exclusion Request
11 will not participate in, or be bound by, the Settlement of the Judgment and will not receive any
12 payment pursuant to the Settlement except for a payment from the portion of the PAGA Payment to
13 the PAGA Group if the Class Member is a PAGA Group Member, and will not be bound by the
14 terms of the Settlement, except for the release of the PAGA Group Released Claims if the Class
15 Member is a PAGA Group Member, and will not have any right to object, appeal, or comment
16 thereon. To be valid, Exclusion Requests must be completed in full, signed, and returned to the
17 Settlement Administrator before the expiration of the Exclusion Period. Non-Participating Class
18 Members will not be permitted to file objections to the Settlement and/or appear at the Final
19 Approval Hearing to voice any objections to the Settlement. Members of the PAGA Group cannot
20 seek to exclude themselves from the Settlement of the PAGA claim, but retain all rights to exclude
21 themselves from the Class Settlement as delineated herein. The Settlement Administrator will
22 provide Class Counsel, Defense Counsel, and the Superior Court with only the names of the Non-
23 Participating Class Members.

24 (c) **Objections to Settlement.** The Class Notice will provide that any Class
25 Member who does not request exclusion from the Settlement and who wishes to object to the
26 Settlement must serve on the Settlement Administrator, not later than forty-five (45) days after the
27 Settlement Administrator initially mails the Class Notice, a written objection to the Settlement
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1 which sets forth the grounds for the objection and the other information required by Paragraph
2 46(d). The objection must be served as follows:

3 *Huerta v. TCI Investment Group, Inc., et al.*

4 c/o _____

5 _____

6 _____

7
8 (d) The written objection must state the Class Member's (i) name, (ii) address,
9 (iii) the dates of the Class Member's employment with Defendants, (iv) the basis for each objection
10 in clear and concise terms, and (v) whether the Class Member intends to appear and object at the
11 Final Approval Hearing. A Class Member who does not serve a written objection in the manner
12 and by the deadline specified may appear at the Final Approval Hearing to state their objection to
13 the Settlement. If a Class Member fails to submit a written objection or to appear at the Final
14 Approval hearing to make an oral objection, the Class Member will be deemed to have waived all
15 objections and will be foreclosed from making any objections – whether by appeal or otherwise – to
16 the Settlement.

17 (e) If a Class Member submits both a Request for Exclusion and a written
18 objection, the Settlement Administrator shall attempt to contact and determine whether the Class
19 Member would like to withdraw either the Request for Exclusion or the objection. If the Class
20 Member does not withdraw the Request for Exclusion or if the Settlement Administrator cannot
21 contact a Class Member who submits both a Request for Exclusion and an objection, the Request
22 for Exclusion shall be valid and it shall be presumed that the Class Member does not wish to
23 participate in the Settlement.

24 (f) If the Superior Court rejects the Class Member's objection, or if the Superior
25 Court approves the settlement despite any objections, the Class Member will be deemed to be a
26 Participating Class Member and will be bound by the terms of this Settlement.

27 (g) A Class Member who timely submits a valid Exclusion Request will not
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1 participate in, or be bound by, the Settlement of the Judgment and will not receive any payment
2 pursuant to the Settlement except for a payment from the portion of the PAGA Payment to the
3 PAGA Group if the Class Member is a PAGA Group Member, and will not be bound by the terms
4 of the Settlement and Judgment, except for the release of the PAGA Group Released Claims if the
5 Class Member is a PAGA Group Member, and will not have any right to object, appeal, or
6 comment thereon.

7 48. **Report.** Not later than seven (7) days after the deadline for submission of requests
8 to be excluded and/or objections, the Settlement Administrator will provide each Defendants,
9 through its respective Defense Counsel, with a complete and accurate list of names for all
10 Participating Class Members, all Non-Participating Class Members, all PAGA Group Members, and
11 all Class Members who objected to the settlement. The report shall also be accompanied by an
12 itemized calculation of the Settlement Shares for each Participating Class Member. The Settlement
13 Administrator shall also provide both Parties with a report identifying the number of Participating
14 Class Members, the number of Non-Participating Class Members, the number of PAGA Group
15 Members, and the number of Class Members who submitted a valid, timely, and complete
16 objection. Class Counsel shall also receive a list of Class Members who object to the Settlement.

17 49. **Resolution of Class Member and PAGA Group Member Disputes.** If a Class
18 Member and/or PAGA Group Member disputes the number of his or her Individual Workweeks
19 and/or Individual Pay Periods stated in their Class Notice, the Class Member and/or PAGA Group
20 Member must, within forty-five (45) days after the Settlement Administrator initially mails the
21 Class Notice, ask the Settlement Administrator to resolve the matter by returning the Class Notice
22 with a statement of the number of Workweeks and/or Pay Periods that he or she contends were
23 worked and include any documentation the Class Member and/or PAGA Group Member has to
24 support their contention. The Settlement Administrator shall notify Defendants of the dispute and
25 provide them with a copy of the Class Notice and any documentation received in support of the
26 dispute within three (3) court days of receipt thereof. Defendants shall review their payroll and
27 personnel records and verify the correct number of Workweeks and/or Pay Periods within five (5)

1 court days of the Settlement Administrator's notification. Defendants' records will have a
2 rebuttable presumption of accuracy. After consultation with Class Counsel, Defense Counsel, and
3 the applicable Class Member and/or PAGA Group Member, the Settlement Administrator will,
4 within three (3) court days of Defendants' verification, make a determination of the Class Member's
5 and/or PAGA Group Member's number of Workweeks and/or Pay Periods and that determination
6 will be final, binding on the Parties and the Class Member and/or PAGA Group Member, and is not
7 appealable.

8 **50. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their
9 respective counsel, will directly or indirectly solicit or otherwise encourage any Class Member to
10 exclude him or herself from the Settlement, object to the Settlement, and/or appeal from the
11 Judgment. If ten percent (10%) or more of the Class Members submit a complete, valid, and timely
12 request to be excluded from the Settlement and are deemed to be Non-Participating Class Members,
13 then Defendants shall have the unilateral right to void this Settlement. Defendants may do so by
14 giving notice to Plaintiff and the Court of its election to void the Settlement not later than fourteen
15 (14) days after the Settlement Administrator issues its report identifying the number of Participating
16 Class Members, the number of Non-Participating Class Members, and the number of Class
17 Members who objected to the settlement as described in Paragraph 46(c). Notwithstanding any
18 other provisions in this Settlement, no sums shall be payable by Defendants in the event that this
19 Settlement is voided as provided for herein.

20 **51. Additional Briefing and Final Approval.**

21 (a) Not later than sixteen (16) court days before the Final Approval Hearing, the
22 Plaintiff will prepare and file with the Superior Court a Motion for Final Approval of the
23 Settlement, including payment of the Class Representative Payment, Class Counsel's Fees Payment,
24 Class Counsel's Litigation Expenses Payment, the Settlement Administrator's Payment, and a
25 memorandum in support of their motion ("Motion for Final Approval"). Absent the escalator
26 provisions outlined in Paragraph 18, if applicable, Plaintiff will not seek additional fees from
27 Defendants or an increase in the Maximum Settlement Amount as part of the Motion for awards of
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1 the Class Representative Payment, Class Counsel Fees Payment, and the Class Counsel Litigation
2 Expenses Payment.

3 (b) Not later than five (5) court days before the Final Approval Hearing, the
4 Parties shall be entitled to file and serve a response to any Class Member's objection to the
5 Settlement and/or reply in support of their Motion for Final Approval, to the extent that any
6 opposition to said Motion is filed.

7 (c) If the Superior Court ultimately does not grant final approval of the
8 Settlement or grants final approval conditioned on any material change to the Settlement that is not
9 agreed to by one of the Parties, then any Party will have the right to void the Settlement. If the
10 Settlement is voided in this manner, the Parties will have no further obligations under the
11 Settlement, including any obligation by Defendants to pay any amounts that otherwise would have
12 been payable under this Settlement, except that the voiding Party will pay the Settlement
13 Administrator's reasonable fees and expenses incurred as of the date that the Party exercises the
14 right to void the Settlement under this Paragraph. An award by the Superior Court of a lesser
15 amount than that sought by Plaintiff and Class Counsel for the Class Representative Payment, the
16 Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and/or the
17 Settlement Administrator's Payment, will not constitute a material change to the Settlement within
18 the meaning of this Paragraph.

19 (d) Upon final approval of the Settlement by the Superior Court at or after the
20 Final Approval Hearing, the Parties will present for the Superior Court's approval and entry a
21 Proposed Final Order and Judgment. The entry of the Final Order and Judgment shall permanently
22 bar all Participating Class Members from prosecuting against Defendants any claims or causes of
23 action of any kind up through the date of Final Approval, which were or could have been brought in
24 this Action, whether known or unknown, as well as all claims as set forth in the Release contained
25 in Section V of this Agreement.

26 (e) After entry of the Judgment, the Superior Court will have continuing
27 jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Settlement,

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(ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

52. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Settlement, Plaintiff, Participating Class Members, Defendants, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary writ, and the Judgment therefore will become non-appealable by them 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 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 Judgment, consistent with the terms of this Settlement, becomes Final.

53. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then either Party will have the right to void the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing court, and the Superior Court, not later than fourteen (14) days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes final. A vacation, reversal, or modification of the Superior Court's award of the Class Representative Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and/or the Settlement Administrator's Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this Paragraph.

54. **Establishment of Settlement Account.** The Settlement Administrator shall establish a Settlement Account within ten (10) days of the Effective Date and notify the Parties

1 when the Settlement Account has been established. The Settlement Administrator shall also
2 provide Defendants with an itemized statement for the total amount to be deposited into the
3 Settlement Account, which shall equal the Maximum Settlement Amount ("Settlement Account
4 Deposit"). Within ten (10) days after receiving notification of the Settlement Account and
5 statement for the Settlement Account Deposit, Defendants shall pay into the Settlement Account an
6 amount equal to the Settlement Account Deposit. Defendants shall have no obligation to pay any
7 additional funds into the Settlement Account.

8 **55. Payment of Settlement Shares.** The Settlement Administrator shall pay to each
9 Participating Class Member his or her Settlement Share from the Settlement Account. The
10 Settlement Administrator shall pay each Settlement Share by sending a check in the appropriate
11 amount after withholdings to the Participating Class Member at the address indicated in the Class
12 Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within
13 fourteen (14) days of its receipt of the Settlement Account Deposit from Defendants.

14 **56. Payment of PAGA Payment Shares.** The Settlement Administrator shall pay to
15 each PAGA Group Member his or her PAGA Payment Share from the Settlement Account. The
16 Settlement Administrator shall pay each PAGA Payment Share by sending a check in the
17 appropriate amount to the PAGA Group Member at the address indicated in the PAGA Group
18 Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within
19 fourteen (14) days of its receipt of the Settlement Account Deposit from Defendants.

20 **57. Uncashed Settlement Share and PAGA Payment Share Checks.** Any checks
21 paid to Participating Class Members and/or PAGA Group Members shall be negotiable for one
22 hundred and eighty (180) calendar days from the date of their issuance. A Participating Class
23 Member must cash his or her Settlement Share check within one hundred and eighty (180) calendar
24 days after it is mailed to him or her. A PAGA Group Member must cash his or her PAGA Payment
25 Share check within one hundred and eighty (180) calendar days after it is mailed to him or her. If a
26 check remains uncashed after one hundred and eighty (180) calendar days from the initial mailing,
27 or if a check is returned to the Settlement Administrator as undeliverable during the one hundred
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eighty-day period, the Settlement Administrator shall take all reasonable efforts to identify the Participating Class Member's and/or PAGA Group Member's correct address, including the performance of a "skip-trace." If an updated address can be identified, the Settlement Administrator shall issue another check to the Participating Class Member and/or PAGA Group Member and mail it to the Participating Class Member and/or PAGA Group Member at his or her updated address. If an updated address for the Participating Class Member and/or PAGA Group Member cannot be identified, if a reissued check is once again returned to the Settlement Administrator as undeliverable, or if the reissued check remains uncashed after one hundred eighty (180) calendar days, the Settlement Administrator will keep an accounting of such funds and shall give notice to the Parties of the total balance of uncashed Settlement Shares and/or PAGA Payment Shares. A Participating Class Member who fails to negotiate or receive their Settlement Share check despite the procedures described above shall nevertheless remain bound by the Settlement and the releases contained herein. A PAGA Group Member who fails to negotiate or receive their PAGA Payment Share check despite the procedures described above shall nevertheless remain bound by the Settlement and the releases contained herein.

58. The funds represented by Settlement Share and/or PAGA Payment Share checks remaining uncashed for more than one hundred and eighty (180) calendar days after issuance shall be voided and then shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names of those Participating Class Members and/or PAGA Group Members who did not cash their checks until such time they claim their property. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Participating Class Members, whether or not they all cash their settlement checks.

59. **Final Report by Settlement Administrator to Superior Court.** Within ten (10) days after final disbursement of all funds from the Settlement Account, the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the disbursements of all funds from the Settlement Account. Within ten

(10) days after transmission of any remaining unclaimed funds to Controller of the State of California the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the transmission of any remaining unclaimed funds to Controller of the State of California as outlined Paragraphs 57 and 58.

IV. SETTLEMENT TERMS AND CONDITIONS

60. Conditional Certification for Settlement Purposes. Solely for the purposes of effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the conditional certification of the following Settlement Class: “all hourly-paid, non-exempt employees who, during either the Class Period, have previously been or currently are employed in California by Defendants, as an hourly-paid, non-exempt employee.” The Parties agree that if for any reason the Settlement is not preliminarily and/or finally approved, the conditional certification of the Settlement Class will be of no force or effect, does not constitute an admission by Defendants that class certification is proper, and will not be deemed admissible in this or any other proceeding, and that the Parties will litigate the issue of class certification.

61. Settlement Shares. Subject to the terms and conditions of this Settlement, the Settlement Administrator will calculate the Settlement Shares for each Class Member within ten (10) days after Defendants provide the Settlement Administrator with the Class Members’ Data. The Settlement Share for each Class Member will be calculated as follows, understanding that the formulas below do not constitute an admission by either Party, and are intended only to provide a practical means to simplify and administer the claims process:

(a) **Number of Class Members and Workweeks.** Defendants shall determine the total number of Class Members and the aggregate number of Workweeks for those Class Members as of the time of Preliminary Approval. This information shall be provided to the Settlement Administrator along with the Class Members’ Data as described in Paragraph 46(a) above.

(b) **Calculation of the Workweek Value.** The Settlement Administrator shall determine the value of a Workweek (“Workweek Value”) by taking the Net Settlement Amount and

1 dividing it by the sum of all Class Members' Workweeks who do not opt out of the Settlement.

2 (c) **Calculation of Settlement Shares.** The Settlement Administrator shall
3 assign to each Participating Class Member a Settlement Share which shall be equal to the
4 Workweek Value multiplied by each Participating Class Member's Individual Workweeks. Upon
5 calculation of the Participating Class Members' Settlement Shares, the Settlement Administrator
6 shall furnish to Class Counsel and Defense Counsel a worksheet containing a list of employee
7 identification numbers for the Class Members with their corresponding Individual Workweeks and
8 Settlement Shares.

9 62. **PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the
10 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Group Member
11 within ten (10) days after Defendants provide the Settlement Administrator with the PAGA Group
12 Members' Data. The PAGA Payment Share for each PAGA Group Member will be calculated as
13 follows, understanding that the formulas below do not constitute an admission by either Party, and
14 are intended only to provide a practical means to simplify and administer the claims process:

15 (a) **Number of PAGA Group Members and Pay Periods.** Defendants shall
16 determine the total number of PAGA Group Members and the aggregate number of Pay Periods for
17 those PAGA Group Members as of the time of Preliminary Approval. This information shall be
18 provided to the Settlement Administrator along with the Class Members' Data as described in
19 Paragraph 46(a) above.

20 (b) **Calculation of the Pay Period Value.** The Settlement Administrator shall
21 determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount
22 and dividing it by the sum of all PAGA Group Members' Pay Periods.

23 (c) **Calculation of PAGA Payment Shares.** The Settlement Administrator shall
24 assign to each PAGA Group Member a PAGA Payment Share which shall be equal to the Pay
25 Period Value multiplied by each PAGA Group Member's Individual Pay Periods. Upon calculation
26 of the PAGA Group Members' PAGA Payment Shares, the Settlement Administrator shall furnish
27 to Class Counsel and Defense Counsel a worksheet containing a list of employee identification
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1 numbers for the PAGA Group Members with their corresponding Individual Pay Periods and
2 PAGA Payment Shares.

3 **63. Taxes and Withholdings.** Each Settlement Share is intended to settle the Class
4 Members' claims for unpaid wages and penalties. Accordingly, ten percent (10%) of each
5 Settlement Share shall represent unpaid wages and the remaining ninety percent (90%) of each
6 Settlement Share shall represent penalties and interest. The portion of the Settlement Share
7 representing unpaid wages shall be paid to each Participating Class Member subject to any
8 applicable employee-side tax withholdings and deductions, and the Settlement Administrator shall
9 issue an IRS Form W-2 to each Participating Class Member for that amount. The portion of the
10 Settlement Share representing penalties shall be paid to the Participating Class Member in full
11 without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099
12 to each Participating Class Member for that amount. Each Participating Class Member shall be
13 individually responsible for their own share of applicable income tax withholdings and deductions
14 from the Settlement Share attributable to the portion of the settlement for which an IRS Form 1099
15 will be issued. Defendants' payment of the Employer Payroll Tax attributable to the Settlement
16 Share payments constituting wages will be made separately, according to each Defendants' agreed
17 upon proportionate share of the Maximum Settlement Amount, and shall not come from the
18 Maximum Settlement Amount. The Parties agree and understand that Defendants have not made
19 any representations regarding the tax obligations or consequences, if any, related to this Settlement.
20 The Parties agree that Defendants and each Participating Class Member are solely responsible for
21 determining the tax consequences of payments made pursuant to this Settlement and for paying
22 taxes, if any, which are determined to be owed by each of them on such payments (including
23 penalties and interest related thereto) by any taxing authority, whether state, local, or federal.

24 **64.** Each PAGA Payment Share is intended to settle the PAGA Group Members' claims
25 for civil penalties. Accordingly, one hundred percent (100%) of each PAGA Payment Share shall
26 represent civil penalties. The PAGA Payment Share shall be paid to the PAGA Group Member in
27 full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form
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1 1099 to each PAGA Group Member for that amount, to the extent the PAGA Group Member's
2 PAGA Payment Share is Six Hundred Dollars and Zero Cents (\$600.00) or more. Each PAGA
3 Group Member shall be individually responsible for their own share of applicable income tax
4 withholdings and deductions for his or her PAGA Payment Share.

5 **65. Total Payment Amount.** In no event will Defendants be required to pay more than
6 the Maximum Settlement Amount (unless that amount is increased pursuant to Paragraph 18 above)
7 for distribution to the Plaintiff, Class Counsel, Participating Class Members, PAGA Group
8 Members, LWDA, Settlement Administrator, or for any other costs or expenses not otherwise
9 enumerated. However, Defendants' payment of the Employer Payroll Tax attributable to the
10 Settlement Share payments constituting wages will be made separately, according to each
11 Defendants' agreed upon proportionate share of the Maximum Settlement Amount, and shall not
12 come from the Maximum Settlement Amount.

13 **66. Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and
14 conditions of this Settlement, the Settlement Administrator will make the following payments out of
15 the Maximum Settlement Amount as follows:

16 **(a) To Plaintiff:** In addition to her Individual Settlement Share, Plaintiff will
17 apply to the Superior Court for a Class Representative Payment in an amount not to exceed Ten
18 Thousand Dollars and Zero Cents (\$10,000.00). Defendants will not oppose this Class
19 Representative Payment. The Settlement Administrator will pay the Class Representative Payment
20 approved by the Superior Court out of the Maximum Settlement Amount. Payroll tax withholding
21 and deductions will not be taken from the Class Representative Payment and an IRS Form 1099 will
22 be issued to Plaintiff for this payment.

23 **(b) To Class Counsel:** Class Counsel will apply to the Superior Court for the
24 Class Counsel Fees Payment in an amount not to exceed one-third (1/3) of the Maximum
25 Settlement Amount (currently estimated to be Four Hundred and Sixty-Six Thousand, Six Hundred
26 and Sixty-Six Dollars and Zero Cents (\$466,666.00)). Class Counsel will also submit to the
27 Superior Court a memorandum of costs for the Class Counsel Litigation Expenses Payment in an
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1 amount not to exceed Forty Thousand Dollars and Zero Cents (\$40,000.00) as request reasonable
2 costs of suit to be paid from the Maximum Settlement Amount. Defendants will not oppose these
3 requests. The Settlement Administrator will pay the amounts approved by the Superior Court out of
4 the Maximum Settlement Amount. Withholding and deductions will not be taken from the Class
5 Counsel Fees Payment or Class Counsel Litigation Expenses Payment and one or more IRS Forms
6 1099 will be issued to Class Counsel with respect to those payments.

7 (c) **To the LWDA:** As part of its Motions for Preliminary and Final Approval,
8 the Plaintiff will apply to the Superior Court for approval of the LWDA Payment in the amount of
9 Thirty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$37,500.00), which shall constitute
10 the LWDA's seventy-five percent (75%) share of Fifty Thousand Dollars and Zero Cents
11 (\$50,000.00) in civil penalties paid under this Settlement. The remaining Ten Thousand Dollars
12 and Zero Cents (\$10,000.00) in civil penalties shall be distributed on a *pro rata* basis based upon
13 the number of pay periods worked by each PAGA Group Member ("PAGA Payment").

14 (d) **To the Settlement Administrator:** The Settlement Administrator will be
15 paid from the Maximum Settlement Amount its reasonable fees and expenses as approved by the
16 Superior Court, which are estimated not to exceed Ten Thousand, Five Hundred Dollars and Zero
17 Cents (\$10,500.00).

18 67. **Appointment of Settlement Administrator.** The Parties will ask the Superior
19 Court to appoint Phoenix Class Action Administrators, a qualified and experienced administrator
20 based in California where the Action is venued, to serve as the Settlement Administrator, which, as
21 a condition of appointment, will agree to be bound by this Agreement with respect to the
22 performance of its duties and its compensation. The Settlement Administrator's duties will include
23 (i) calculating Settlement Shares and PAGA Payment Shares; (ii) preparing, printing, and mailing
24 the Class Notice to all Class Members; (iii) using reasonable measures to contact all Class
25 Members, including conducting a National Change of Address search on all Class Members before
26 mailing the Class Notice to each Class Member's address; (iv) re-mailing the Class Notice to the
27 Class Member's new address for those Class Members whose address had changed; (v) setting up a

1 toll-free telephone number to receive calls from Class Members; (vi) receiving requests for
2 exclusion and objections to the Settlement; (vii) providing the Parties with weekly status reports
3 about the delivery of Class Notices and any requests for exclusion and objections; (viii) issuing the
4 checks to effectuate the payments due under the Settlement; (ix) using reasonable measures to
5 deliver issued checks to Participating Class Members, including use of a “skip-trace” for
6 undeliverable checks; and (x) otherwise administering the Settlement pursuant to this Agreement
7 including paying and reporting the employer’s share of the payroll taxes to the appropriate taxing
8 agency. The Settlement Administrator will have the final authority to resolve all disputes
9 concerning the calculation of a Participating Class Member’s Settlement Share and/or PAGA Group
10 Member’s PAGA Payment Share, subject to the terms set forth in this Agreement. The Settlement
11 Administrator’s reasonable fees and expenses are estimated to not exceed Ten Thousand, Five
12 Hundred Dollars and Zero Cents (\$10,500.00) and will be paid out of the Maximum Settlement
13 Amount, as set forth herein, subject to Court approval.

14 **V. RELEASE OF CLAIMS**

15 68. **Plaintiff’s Released Claims.** Plaintiff, individually and on behalf of Plaintiff’s
16 heirs, executors, administrators, representatives, attorneys, successors and assigns knowingly and
17 voluntarily releases and forever discharges Defendants, including any and all parent corporation,
18 affiliates, subsidiaries, managers, divisions, predecessors, insurers, franchisors, successors and
19 assigns, including but not limited to each of their current and former employees, attorneys, officers,
20 directors and agents thereof, both individually and in their business capacities, and their employee
21 benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans
22 and programs (collectively, “Plaintiff’s Released Parties”), to the fullest extent permitted by law, of
23 and from any and all claims, known and unknown, asserted and unasserted, which Plaintiff has or
24 may have against the Plaintiff’s Released Parties as of the date of execution of this Settlement
25 Agreement. Plaintiff is not waiving any rights Plaintiff may have to: (i) Plaintiff’s own vested
26 accrued employee benefits under the Defendants’ health, welfare or retirement benefits plans, if
27 any, as of the date of execution of this Settlement Agreement; (ii) benefits or rights to seek benefits
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1 under applicable workers' compensation (except as to claims under Labor Code §§ 132a and 4553
2 which are expressly released herein) or unemployment insurance or indemnification statutes; (iii)
3 pursue claims which by law cannot be waived by signing this Settlement Agreement; and (iv)
4 enforce this Settlement Agreement.

5 69. To affect a full and complete general release as described above, Plaintiff expressly
6 waives and relinquishes all rights and benefits of § 1542 of the Civil Code of the State of California
7 and does so understanding and acknowledging the significance and consequence of specifically
8 waiving § 1542. Thus, notwithstanding the provisions of § 1542, and to implement a full and
9 complete release and discharge of all parties, Plaintiff expressly acknowledges this Settlement
10 Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know
11 or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this
12 Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants
13 Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code § 1542,
14 and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's
15 choosing about this Settlement Agreement and specifically about the waiver of § 1542, and that
16 Plaintiff understands this Settlement Agreement and the § 1542 waiver, and so Plaintiff freely and
17 knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later
18 may discover facts different from or in addition to those Plaintiff now knows or believes to be true
19 regarding the matters released or described in this Settlement Agreement, and even so Plaintiff
20 agrees that the releases and agreements contained in this Settlement Agreement shall remain
21 effective in all respects notwithstanding any later discovery of any different or additional facts.
22 Plaintiff expressly assume any and all risk of any mistake in connection with the true facts involved
23 in the matters, disputes or controversies released or described in this Settlement Agreement or with
24 regard to any facts now unknown to Plaintiff relating thereto.

25 70. **Participating Class Members Released Claims.** Upon the date Defendants fully
26 fund the Settlement, each Participating Class Member, and without the need to manually sign a
27 release document, shall release the Released Parties from all causes of action and claims that were
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1 alleged in the Action or reasonably could have been alleged based on the facts and legal theories
2 contained in the Action, including all of the following claims for relief: (i) failure to pay all regular
3 wages, minimum wages and overtime wages due (Lab. Code §§ 510, 558, 1194, 1194.2, 1197,
4 1197.1, & 1198); (ii) failure to provide compliant meal periods (Lab. Code §§ 226.7 & 512); (iii)
5 failure to provide compliant rest breaks (Lab. Code § 226.7); (iv) failure to timely pay wages during
6 employment (Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage statements
7 (Lab. Code § 226); (vi) failure to pay wages timely at time of termination or resignation (Lab. Code
8 §§ 201-203); (vii) failure to indemnify all necessary business expenses (Lab. Code §§ 2800, *et*
9 *seq.*); (viii) unfair business practices that could have been premised on the claims, causes of action
10 or legal theories of relief described above or any of the claims, causes of action or legal theories of
11 relief pleaded in the operative complaint (Cal. Bus. & Prof. Code § 17200, *et seq.*); (ix) any claim
12 for costs and attorneys' fees and expenses; and (x) any claim arising from the claims described
13 above under applicable federal, state, local or territorial law as well as applicable regulations and
14 Wage Orders (collectively, the "Released Claims"). Participating Class Members who cash their
15 checks are deemed to have waived all Released Claims inclusive of claims under the Fair Labor
16 Standards Act. Participating Class Members who do not cash their checks shall be deemed to waive
17 all Released Claims except for a claim under the Fair Labor Standards Act. Released Claims for
18 Class Members who worked for Defendants in California during the Class Period shall have their
19 claims released during the Class Period.

20 **71. PAGA Group Released Claims.** Upon the date Defendants fully fund the
21 settlement, each PAGA Group Member, and without the need to manually sign a release document,
22 shall release the Released Parties for claims for civil penalties pursuant to PAGA based upon all
23 causes of action and claims that were alleged in the Action or reasonably could have been alleged
24 based on the facts and legal theories contained in the Action, and/or the LWDA Exhaustion Letter
25 including all of the following claims for relief: (i) failure to pay all regular wages, minimum wages
26 and overtime wages due (Lab. Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, & 1198); (ii) failure
27 to provide compliant meal periods (Lab. Code §§ 226.7 & 512); (iii) failure to provide compliant

rest breaks (Lab. Code § 226.7); (iv) failure to timely pay wages during employment (Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage statements (Lab. Code § 226); (vi) failure to maintain accurate employment and payroll records (Lab. Code §§ 1174 & 1174.5); (vii) failure to pay wages timely at time of termination or resignation (Lab. Code §§ 201-203); (viii) failure to indemnify all necessary business expenses (Lab. Code §§ 2800, *et seq.*); (ix) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the Action; (x) any claim for costs and attorneys' fees and expenses; and (xi) any claim arising from the claims described above under applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders (collectively, the "PAGA Released Claims"). PAGA Released Claims for PAGA Group Members who worked for Defendants in California during the PAGA Period shall have their claims released during the PAGA Period.

72. Released Parties includes Defendants and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

73. In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a Class Member who exclude themselves from the Settlement shall nonetheless receive a payment for the amount of each such individual's estimated share of the PAGA Payment and shall have released PAGA claims, as outlined in Paragraph 71.

74. The Participating Class Members Released Claims and PAGA Group Released Claims described in Paragraphs 70 and 71 expressly exclude all claims made by a Participating Class Member and/or PAGA Group Member for vested benefits, wrongful termination,

1 unemployment insurance, disability, social security, workers' compensation, claims while classified
2 as exempt, and claims outside of the Class Period and/or PAGA Period.

3 **75. Class Counsel.** As of the Effective Date, and except as otherwise provided by this
4 Settlement, Class Counsel and any counsel associated with Class Counsel waive any further claims
5 to costs and attorneys' fees and expenses against Defendants or the Released Parties arising from or
6 related to the Action, including but not limited to claims based on the Labor Code, the Code of Civil
7 Procedure, PAGA, the Fair Labor and Standards Act, the Business and Professions Code, or any
8 other contract, statute or law ("Class Counsel Released Claims").

9 **76. No Effect on Other Benefits.** The payment of Settlement Shares and/or PAGA
10 Payment Shares will not result in any additional employee benefit payments (such as 401(k),
11 vacation, or bonus) and shall not have any effect on the eligibility for, or calculation of, any
12 employee benefit.

13 **VI. DUTIES OF THE PARTIES**

14 **77. Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
15 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
16 limited to, execution of such other documents and the taking of such other actions as may
17 reasonably be necessary to fulfill the terms of this Settlement unless the Court denies the Settlement
18 with prejudice. The Parties shall use their best efforts, including all efforts contemplated by this
19 Stipulation and any other efforts that may become necessary by court order or otherwise, to
20 effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of
21 this Stipulation, Class Counsel, with the cooperation of Defendants and Defense Counsel, shall take
22 all necessary and reasonable steps to secure the Court's approval of this Stipulation. The Parties will
23 work together to make any non-material modifications of the Settlement requested by the Court to
24 obtain approval of the Parties' Settlement.

25 **78. Duty to Support and Defend the Class Settlement.** The Parties agree to abide by
26 all of the terms of the Settlement in good faith and to support the Settlement fully and to use their
27 best efforts to defend this Settlement from any legal challenge, whether by appeal or collateral
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1 attack.

2 79. **Duties Prior to Court Approval.** Class Counsel shall promptly submit this
3 Stipulation to the Court for preliminary approval and determination by the Court as to its fairness,
4 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall
5 apply to the Court for the entry of a preliminary order, scheduling a hearing on the question of
6 whether the proposed Class Settlement should be approved as fair, reasonable, and adequate as to
7 the Class Members, approving as to form and content the proposed Class Notice attached hereto as
8 Exhibit "A", respectively, and directing the mailing of the Class Notice to Settlement Class
9 Members.

10 80. **Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendants
11 denies any liability of any kind associated with the claims alleged in the Lawsuit, denies any
12 liability or intentional wrongdoing, Defendants revised and updated their wage and hour policies
13 and practices, including but not limited to their timekeeping and meal period and rest break policies
14 and procedures.

15 **VII. MISCELLANEOUS TERMS**

16 81. **No Admission of Liability.** Defendants deny that it has engaged in any unlawful
17 activity, has failed to comply with the law in any respect, or has any liability to anyone under the
18 claims asserted in the Action. This Settlement is entered into solely for the purpose of
19 compromising highly disputed claims. Nothing in this Settlement is intended or will be construed
20 as an admission of liability or wrongdoing by Defendants, an admission by Plaintiff that any of his
21 claims were non-meritorious, or any defense asserted by Defendants was meritorious. This
22 Settlement and the fact that Plaintiff and Defendants were willing to settle the Action will have no
23 bearing on, and will not be admissible in connection with, any litigation (other than solely in
24 connection with the Settlement).

25 82. The Parties also agree that this release constitutes a resolution of a good faith dispute
26 concerning wages and complies with Labor Code Section 206.5, which reads in part:

1 “An employer shall not require the execution of a release of a claim
2 or right on account of wages due, or to become due, or made as an
3 advance on wages to be earned, unless payment of those wages has
4 been made.”

5
6 83. Whether or not the Judgment becomes Final, neither the Settlement, any document,
7 statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those
8 matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be
9 evidence for any purpose adverse to Defendants or any of the Released Parties, including, but not
10 limited to, evidence of a presumption, concession, indication or admission by any of the Released
11 Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed,
12 referred to or offered in evidence against any of the Released Parties, or any other civil, criminal or
13 administrative action or proceeding except for purposes of effectuating this Settlement.

14 84. Notwithstanding Paragraph 83 of this Settlement, any and all provisions of this
15 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce
16 any or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

17 85. **Non-Disparagement.** Plaintiff and Class Counsel agree not to make any untruthful,
18 malicious, disparaging or defamatory statements, allegations, comments or communications,
19 regardless of form (whether written, oral, electronic, including but not limited to Glassdoor, Yelp,
20 or otherwise), regarding the Released Parties. Plaintiff and Class Counsel further agree not to
21 encourage authorize or permit any such statements, allegations, comments or communications to be
22 made by others on their behalf. To the extent Plaintiff and/or Class Counsel have posted any
23 negative comments about the Released Parties on Glassdoor, Yelp, or other websites, Plaintiff
24 and/or Class Counsel agree to request that these comments be removed and to provide a copy of
25 such request to Defense Counsel within 30 days of the execution of this Agreement.

26 86. **Waiver of Reemployment.** Plaintiff acknowledges that he has no intent to apply for
27 employment and/or re-employment with Defendants. Plaintiff further acknowledges that
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1 Defendants or any related, successor, parent, or subsidiary companies has the right to refuse rehire
2 Plaintiff for non-discriminatory and non-retaliatory reasons and Plaintiff acknowledge that
3 Defendants' position is that such legitimate non-discriminatory and non-retaliatory reasons exist.

4 **87. Integrated Agreement.** After this Settlement is signed and delivered by all Parties
5 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
6 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
7 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
8 other than the representations, warranties, covenants, and inducements expressly stated in this
9 Settlement and its exhibits.

10 **88. Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent
11 that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action
12 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms,
13 and to execute any other documents required to effectuate the terms of this Settlement. The Parties
14 and their counsel will cooperate with each other and use their best efforts to affect the
15 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
16 form or content of any document needed to implement the Settlement, or on any supplemental
17 provisions that may become necessary to effectuate the terms of this Settlement, the Parties will
18 seek the assistance of mediator Todd Smith, Esq., and if no resolution is reached the Superior Court,
19 and in all cases all such documents, supplemental provisions and assistance of the court will be
20 consistent with this Settlement.

21 **89. Modification of Agreement.** This Agreement, and any and all parts of it, may be
22 amended, modified, changed, or waived only by an express written instrument signed by all Parties,
23 their successors-in-interest, and/or the Parties' respective counsel, as authorized.

24 **90. Settlement Binding on Successors.** This Settlement Agreement will be binding
25 upon, and inure to the benefit of, the successors of each of the Parties.

26 **91. Applicable Law.** All terms and conditions of this Settlement and its exhibits will be
27 governed by and interpreted according to the laws of the State of California, without giving effect to
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any conflict of law principles or choice of law principles.

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

93. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Settlement through arms-length negotiations, taking into account all relevant factors, current and potential.

94. **Headings.** The descriptive heading of any section or Paragraph of this Settlement is inserted for convenience of reference only and does not constitute a part of this Settlement.

95. **Notice.** All notices, demands or other communications given under this Settlement will be in writing and deemed to have been duly given as of the third business day after mailing by U.S. Mail, addressed as follows:

To Class Counsel:

Shoham J. Solouki, Esq.
Grant Joseph Savoy, Esq.
316 W. 2nd Street, Suite 1200
Los Angeles, California 90012

To the Defendants' Counsel:

Andrea Rosenkranz, Esq.
O'HAGAN MEYER
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626

96. **Execution in Counterpart.** This Settlement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be presumptive evidence of execution of the original, which shall be produced on reasonable request. Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

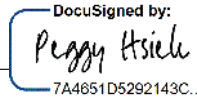
1 DATED: 12/11/2023

MARISOL HUERTA

Marisol Huerta

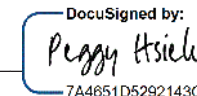
2
3
4 DATED: 12/8/2023

TCI INVESTMENT GROUP, INC.

5
6 By:  7A4851D5292143C...
7 Its: Corporate Secretary

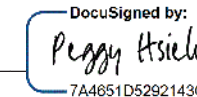
8
9 DATED: 12/8/2023

BRIGHTON-BEST INTERNATIONAL, INC.

10 By:  7A4851D5292143C...
11 Its: Corporate Secretary

12
13 DATED: 12/8/2023

TA CHEN INTERNATIONAL, INC.

14 By:  7A4851D5292143C...
15 Its: Corporate Secretary

16
17 DATED: 12/11/2023

SOLOUKI | SAVOY, LLP

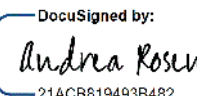
18 By: *Shoham Solouki*

19 Shoham J. Solouki, Esq.
Grant Joseph Savoy, Esq.

20 Attorneys for Plaintiff
21 MARISOL HUERTA

22 DATED: 12/8/2023

O'HAGAN MEYER

23 By:  21ACB819493B482...
24 Andrea R.

25 Attorneys for Defendants
26 TCI INVESTMENT GROUP, INC., BRIGHTON-
27 BEST INTERNATIONAL, INC., and TA CHEN
28 INTERNATIONAL, INC.