

WAGE AND HOUR CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (“Settlement Agreement”) is entered into by and between Defendant Tokyo Teriyaki Corporation d.b.a. Chowking (“Defendant”) and Plaintiff Andrei Lim (“Class Representative”) on behalf of himself individually, and on behalf of all members of the “Plaintiff Class” as described herein.

DEFINITIONS

1. “Action” means, *Andrei Lim v. Tokyo Teriyaki Corporation d.b.a. Chowking* (Case No. 20STCV39689), filed in the Superior Court for the State of California, County of Los Angeles.

2. “Attorneys’ Fees and Costs” means attorneys’ fees for Class Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the Action, including but not limited to, costs associated with documenting the settlement, providing any notices required as part of the settlement and/or pursuant to Court Order, securing the Court’s approval of the settlement, administering the settlement, obtaining entry of a judgment terminating the Action, and expenses for any experts. Class Counsel will apply for, and Defendant agrees to not oppose, attorneys’ fees not to exceed 33.33% of the Gross Settlement Fund, or One Hundred and Thirty-Three Thousand Three Hundred Twenty Dollars and no cents (\$133,320.00) and costs not to exceed Twelve Thousand Dollar and Zero Cents (\$12,000). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs/expenses associated with Class Counsel’s litigation and settlement of the Action, subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above. If the Court does not approve an award of 33.33% of the Gross Settlement Fund and/or the full amount of costs requested, the difference between this/these amount(s) and the actual amount(s) approved shall be returned to the Net Settlement Fund to be distributed to the Settlement Class Members, according to the formula set forth below. These fees and costs are included in, and shall come from, the Gross Settlement Fund and will be paid directly to Class Counsel by the Settlement Administrator. Only

Class Counsel will be issued an IRS Form 1099 for their award of Attorneys' Fees and Costs. No portion of these fees and costs shall be part of any Form 1099 issued to the Representative Plaintiff.

3. "Class Counsel" means Ackermann & Tilajef, P.C. and Employment Rights Law Group APC.

4. "Class Notice" means a form substantially similar to the attached Exhibit "A," which shall be disseminated to all members of the Plaintiff Class, subject to Court approval. This Class Notice is incorporated by reference into this Settlement Agreement.

5. "Compensable Workweeks" mean the total number of weeks Class Members worked at least one shift for Defendant in a non-exempt, hourly-paid position in California at any of their locations during the Settlement Period. Workweeks shall be calculated by counting the number of days between each Class Member's first date employed by Defendant in a non-exempt, hourly-paid position during the Settlement Period and the last day they were employed by Defendant in a non-exempt, hourly-paid position during the Settlement Period, and dividing that sum by seven.

6. "Defendant" means Tokyo Teriyaki Corporation d.b.a. Chowking.

7. "Defendant' Counsel" means Atkinson Andelson, Loya, Ruud & Romo.

8. "Defendant Releasees" means Tokyo Teriyaki Corporation d.b.a. Chowking and each of their past, present and/or future, direct and/or indirect, owners, officers, managing agents, trustees, payroll processors, members, managers, operators, franchisors, directors, employees, agents, principals, representatives, joint venturers, joint employers, benefits providers, fiduciaries, attorneys, accountants, auditors, consultants, partners, investors, shareholders, administrators, insurers and reinsurers, parent companies, subsidiaries, affiliates, divisions, franchisees, lessors, lessees, predecessors, successors, assigns, and/or any party that was or could have been named as a Defendant in the Action.

9. "Effective Date" means 60 days following the date on which the Superior Court's Order granting final approval of this Settlement Agreement ("Final Approval Order") becomes final. The Superior Court's Order "becomes final" upon the last of the following to occur:

- a. If there are no objections to this Settlement Agreement, or if any objection is filed and subsequently withdrawn, the date of Entry of the Final Approval Order. Class Counsel shall not be required to file and/or serve a Notice of Entry of Judgment or similar Notice for the Effective Date to occur;
- b. If there are objections to this Settlement Agreement, and if an appeal, review, or writ is not sought from the Order, the 5th day after any deadline to file an appeal of the Final Approval Order has expired; or
- c. If an appeal, review, or writ is sought from the Final Approval Order, the date after the Final Approval Order is affirmed or the appeal, review, or writ is dismissed or denied, and the Final Approval Order is no longer subject to further review or modification.

10. “Gross Settlement Fund” refers to the amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00), which represents the maximum amount payable in this Settlement by Defendant (not including, only, payment by the employer of its share of payroll taxes, which shall be paid separately and apart of the Gross Settlement Fund), which includes, without limitation, the payments to the members of the Plaintiff Class, the attorneys’ fees and costs, the costs of settlement administration by the Settlement Administrator, the enhancement award to the Representative Plaintiff, and payment to the California Labor & Workforce Development Agency (“LWDA”) for release of claims under the Private Attorneys General Act (“PAGA”) pursuant to California Labor Code §§ 2699, et seq., all as further described below. Defendant is under no obligation under this Settlement Agreement to pay anything other than the Gross Settlement Fund and the employer payroll taxes referred to above.

11. “Net Settlement Fund” shall be calculated by deducting from the Gross Settlement Fund (1) the approved Class Counsel’s Attorneys’ Fees and Costs, (2) the approved enhancement award to the Class Representative, (3) the payment to the LWDA for release of claims under PAGA (California Labor Code §§ 2699, et seq.), and (4) the fees and expenses of the Settlement Administrator.

12. “Parties” refers to Plaintiff Andrei Lim, the Plaintiff Class, and Defendant Tokyo Teriyaki Corporation d.b.a. Chowking, collectively.

13. “Plaintiff Class” comprises all current and former non-exempt employees who worked at any time for Defendant in California from October 14, 2016 through the earlier of (i) preliminary approval or (ii) September 20, 2021. The Class consists of 1,178 members as of July 20, 2021 who worked 76,683 workweeks during the Class Period until July 20, 2021, and 17,674 pay periods during the PAGA Covered Period until July 20, 2021.

14. “Class Representative” refers to Plaintiff Andrei Lim.

15. “Settlement Administrator” refers to the third-party company responsible for administering the Settlement. The Settlement Administrator shall be ILYM or CPT.

16. “Settlement Administration Expenses” are those expenses incurred by the Settlement Administrator in effectuating the settlement.

17. “Settlement Class” and/or “Settlement Class Members” refers collectively or individually to those members of the Plaintiff Class who do not timely submit a valid opt-out(s) consistent with the processes described herein.

18. “Settlement Period” is October 14, 2016 through the earlier of (i) preliminary approval or (ii) September 20, 2021.

BACKGROUND

19. On October 14, 2020, Plaintiff Andrei Lim filed a Class Action Complaint alleging various wage and hour claims against Defendant Tokyo Teriyaki Corporation d.b.a. Chowking.

20. This Settlement Agreement affects claims of the Plaintiff Class alleged in the Action arising during the Settlement Period. The Class Representative alleged the following claims: (1) failure to provide meal breaks (Labor Code §§ 226.7 & 512(a)); (2) failure to provide rest breaks (Labor Code § 226.7); (3) failure to provide accurate itemized wage statements (Labor Code § 226(a)); (4) failure to pay all wages due at termination (Labor Code §§ 201, 202, & 203); (5) failure to pay timely wages during employment (Labor Code § 204); (6) unfair business practices

(B&P § 17200 et seq.); and (7) civil penalties under California's Private Attorney General Act (PAGA) (Labor Code § 2699 et seq.)

21. Defendant denies all claims as to liability, damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action, as that term is defined herein. Nothing contained in this Settlement Agreement, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing by Defendant.

22. The Parties intend to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising during the Settlement Period alleged by the Plaintiff Class in the respective complaints and/or any amendments and/or modifications thereto, as well as known and unknown claims which could have been brought based on the specific factual allegations contained therein, including, but not limited to claims for unpaid wages, unpaid overtime, record-keeping violations, paycheck violations, meal period and rest period violations, "waiting time" penalties and PAGA claims which arose between October 14, 2016 through the earlier of (i) preliminary approval or (ii) September 20, 2021.

23. The Parties intend that this Settlement Agreement shall include a full and complete settlement and release, as described herein, and which includes in its effect all of the Defendant Releasees.

24. Class Counsel represents that they have conducted a sufficiently thorough investigation into the claims of the Plaintiff Class against Defendant. Based on their own independent investigation and evaluation and all known facts and circumstances, including the risk of significant defenses asserted by Defendant, Class Counsel are of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interest of the Plaintiff Class.

25. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this settlement and to effectuate all aspects of this Settlement Agreement.

SETTLEMENT CERTIFICATION OF THE PLAINTIFF CLASS

26. For settlement purposes only, the Parties agree that the Plaintiff Class (as defined in the operative Complaints) shall be certified. This Settlement Agreement is contingent upon the approval and certification by the Court of the Plaintiff Class for settlement purposes only. Defendant does not waive, and instead expressly reserves, its right to challenge the propriety of class certification for any purpose should the Court not approve the Settlement Agreement. Defendant denies all claims as to liability, damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendant has agreed to resolve the Action via this settlement but, to the extent this settlement is deemed void or the Effective Date does not occur, Defendant does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations in the Actions upon all procedural, merit, and factual grounds, including, without limitation, the ability to challenge the Class Representative's statutory wage and hour and PAGA claims on any grounds, as well as asserting any and all other privileges and potential defenses. The Class Representative agrees that Defendant retains and reserves these rights, and the Class Representative agrees not to argue or present any argument, and hereby waives any argument that, based on this settlement, Defendant cannot contest the Class Representative's statutory wage and hour claims and/or PAGA claims on any grounds whatsoever, or assert any and all other privileges or potential defenses if the Action were to proceed. In connection with the proposed certification of the Plaintiff Class, the Parties shall cooperate and present to the Court for its consideration competent evidence, as may be requested by the Court, under the applicable due process requirements and standards for class certification for settlement purposes.

SETTLEMENT APPROVAL PROCEDURE

27. This Settlement Agreement will become final and effective upon occurrence of all of these (subsections (a) through (e), inclusive) events:

- a. Execution of this Settlement Agreement by the Parties and their respective counsel of record;

- b. Entry of an Order by the Court (i) granting preliminary approval of the Settlement Agreement, including conditional certification of the Plaintiff Class for settlement purposes only, (ii) approving the proposed Class Notice (the Parties' proposed form is attached hereto as Exhibit "A," respectively), and (iii) scheduling a hearing date for final approval of the Settlement Agreement;
- c. Filing by Class Counsel, at least five calendar days prior to the final approval hearing, the Settlement Administrator's written verification that the Class Notice has been disseminated in accordance with the Court's preliminary approval Order;
- d. Entry of an Order by the Court granting final approval of the Settlement Agreement; and
- e. Occurrence of the Effective Date, as defined above.

28. Class Representative shall submit this Settlement Agreement in support of the motion for preliminary approval. Class Counsel shall not file said motion or any other documents associated with same unless and until Defendant's Counsel has approved the contents thereof. Class Counsel will send Defendant's Counsel the preliminary approval motion for review and approval prior to the filing of same. Defendant's Counsel shall have at least five (5) business days in which to review and approve the motion for preliminary approval.

29. Class Counsel will send Defendant's Counsel the final approval motion for review and approval prior to the filing of same. Defendant's Counsel shall have at least five (5) business days in which to review and approve the motion for final approval.

30. Class Representative shall submit this Settlement Agreement to the LWDA (as required by Labor Code § 2699(l)(2)) and to the Court in support of Class Representative's motion for Preliminary Approval.

SETTLEMENT PAYMENT AND CALCULATION OF CLAIMS

31. In consideration of the mutual covenants and promises set forth herein, the Parties agree, subject to the Court's approval, as follows:

32. Settlement Amount. Defendant agrees to pay a Maximum Settlement Amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00). This amount includes: (i) payments made to Settlement Class Members as described in this Settlement Agreement, (ii) an enhancement award (i.e., service payment) to the Representative Plaintiff of up to \$10,000, (iii) \$30,000 (i.e. 75% of the \$40,000) allocated as PAGA penalties) to the LWDA for its share of the settlement of claims and \$10,000 (i.e. 25% of the \$40,000) will be distributed to Settlement Class Members as part of the Net Settlement Fund); (iv) fees and expenses of the Settlement Administrator; (v) Class Counsel's approved attorneys' fees, and (vi) Class Counsel's approved litigation costs up to \$12,000.00. Defendant will pay Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) to fund the Gross Settlement Fund on or before the Effective Date. In no event shall there be any distribution from the Gross Settlement Fund until after the Effective Date and all conditions precedent specified in this Settlement Agreement have been completely satisfied.

33. The LWDA, the Class Representative (for his enhancement award payment), Class Counsel (for their awarded Attorneys' Fees and Costs), the Settlement Administrator (for its fees and expenses) and Settlement Class Members will be mailed their portions of the Gross Settlement by the Settlement Administrator within five (5) business days after the Effective Date.

34. Payments to the California Labor & Workforce Development Agency. The Parties shall apply to the Court for approval of a payment under PAGA. The Parties have agreed to allocate Forty Thousand Dollars (\$40,000) (the "PAGA Payment") from the Gross Settlement Fund towards a release of the PAGA claims, as described more fully herein. The Parties agree that this amount is reasonable in light of the facts and circumstances presented in the Action. If approved, the LWDA shall be paid seventy-five percent (75%) of the total amount allocated towards PAGA claims. If approved, twenty-five percent (25%) of the total amount allocated towards PAGA claims shall be included in the calculation of the Net Settlement Fund and thereafter be distributed to the Settlement

Class in accordance with the terms of this agreement. In the event the LWDA or Court rejects this allocation, the parties will meet and confer with the Court and the LWDA to reach a penalty allocation that is acceptable to all parties and that does not materially alter the terms of the Settlement Agreement. Notably, the LWDA has been notified of the pendency of the Action and has elected not to pursue penalties or any other remedy for the alleged violations described in the Action.

35. Enhancement Award. Subject to Court approval, in addition to any payment Plaintiff receives in his capacity as a Class Member, Plaintiff will individually receive an enhancement award from the Gross Settlement Fund for his services as the Representative Plaintiff in an amount up to Ten Thousand Dollars (\$10,000). If the Court does not approve the full amount sought for the enhancement award, the difference between this amount and the actual amount approved shall be returned to the Net Settlement Fund to be distributed to the Settlement Class Members according to the formula set forth below. The Class Representative's enhancement award will be distributed by the Settlement Administrator, and will include the issuance of an IRS Form 1099 in connection with this payment. No other Form 1099s will issue to the Class Representative.

36. Attorneys' Fees and Costs. In conjunction with final approval of this Settlement Agreement, Class Counsel will apply to the Court for an award of attorneys' fees in an amount totaling up to 33.33% of the Gross Settlement Fund (\$133,320.00), plus actual costs. Defendant will not oppose such application. If the Court does not approve an award of 33.33% of the Gross Settlement Fund, the difference between this amount and the actual amount approved shall be returned to the Net Settlement Fund to be distributed to the Settlement Class Members, according to the formula set forth below. These fees and costs are included in, and come from, the Gross Settlement Fund and will be paid directly to Class Counsel by the Settlement Administrator. Only Class Counsel will be issued an IRS Form 1099 for their award of Attorneys' Fees and Costs. No portion of these fees shall be part of any Form 1099 issued to the Class Representative.

37. Cost of Settlement Administration. The fees and expenses of the Settlement Administrator shall be paid from the Gross Settlement Fund within five (5) business days after

Defendant fully funds the Gross Settlement Fund. If Defendant opts to terminate the Settlement Agreement pursuant to the terms of this agreement, then Defendant shall bear the cost of such fees and expenses. If the Settlement Agreement is not given final approval by the Court for any other reason, the Parties shall bear the cost of such fees and expenses equally. An IRS Form 1099 shall be issued to the Settlement Administrator.

38. Settlement Awards to Settlement Class Members. Each Settlement Class Member shall be entitled to receive a pro rata portion of the Net Settlement Fund (his/her “Individual Settlement Share”), calculated based upon the number of Compensable Workweeks worked, divided by the total number of Compensable Workweeks worked by all Settlement Class Members. The Settlement Administrator will calculate the number of Compensable Workweeks worked by Settlement Class Members, the amount to be paid per Compensable Workweeks, and the Individual Settlement Share to be paid to each Settlement Class Member. The payment to the Settlement Class Members shall be funded by the remainder of the Gross Settlement after funding the payments to the LWDA, the Class Representative (for his enhancement award payment), to Class Counsel (for their awarded Attorneys’ Fees and Costs), and to the Settlement Administrator (for its fees and expenses).

39. Increase in Workweeks. Defendant represents that there are approximately 76,683 workweeks during the Class Period until July 20, 2021. In the event that the total number of weeks worked in the Settlement Period is ten percent (10%) more than the 76,683 weeks worked figure provided by Defendant, as of July 2021, then the Amount shall be increased proportionately for each additional week worked over 84,734.

ALLOCATION AND TAX TREATMENT

40. Individual Settlement Shares shall be allocated as follows: five percent (5%) of each Individual Settlement Shares shall be allocated as wages, for which an IRS Form W-2 shall be issued and withholdings shall be made; eighty-five percent (85%) shall be allocated as non-wage statutory damages and interest, for which an IRS Form 1099 shall be issued and no withholdings will be made, and ten percent (10%) to penalties for which an IRS Form 1099 shall be issued and no

withholdings shall be made. All settlement payments to Participating Class Members will be subject to any applicable wage garnishments, liens, or other legally mandated treatment as required by law.

41. Any tax obligation arising from the settlement payments, the Class Representative's enhancement award, and/or Class Counsel's Attorney's Fees and Costs, the payment to the Settlement Administrator made under the terms of this Agreement will be the sole responsibility of each person receiving such payment(s). Each Settlement Class Member is responsible to pay his or her portion of the taxes due on any payment he or she receives under this Settlement Agreement.

42. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff and Class Counsel have selected and requested the method of payment and manner of issuance of payment to Plaintiff. Plaintiff Class and Class Counsel further understand and agree that they shall be responsible for the payment of all taxes and penalties assessed on the payments received by them specified herein, and shall hold the Parties, Class Counsel, and Defendant's Counsel free and harmless from and against any claims resulting from treatment of such payments as non-taxable, including the treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.

43. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY

UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

44. The employer's taxes include all statutory FICA, FUTA and California payroll and withholding taxes arising from any payments to Settlement Class Members and shall be paid separately and apart of the Gross settlement fund by Defendant. Such amounts will be computed by the Settlement Administrator based on the amounts paid to the Settlement Class Members. The Settlement Administrator shall be responsible for making all necessary filings in connection with such payments.

45. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members under this Settlement, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Member may be entitled under any benefit plans.

46. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

APPOINTMENT OF SETTLEMENT ADMINISTRATOR

47. The Settlement Administrator will perform the duties of distributing notice, independently reviewing requests for exclusion and objections, and verifying and distributing any amounts due to Settlement Class Members as described in this Settlement Agreement. The Settlement Administrator will report, in summary or narrative form, the substance of its findings. All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until all payments and obligations contemplated by the Settlement Agreement have been fully carried out.

48. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report that certifies the number of Class Members who have submitted valid Requests for Exclusion, objections to the Settlement, and whether any Class Member has submitted a challenge to any information contained in his/her Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

49. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

NOTICE TO THE PLAINTIFF CLASS

50. Subject to Court approval of its form and content, the Class Notice shall be sent to the Plaintiff Class, by first class mail, within twenty-five (25) calendar days after receipt of the

Plaintiff Class List. The Class Notice will, subject to Court approval, advise all Class Members of the nature of the case, the terms of the Settlement, the binding nature of the release, the final approval hearing date, and Class Members' right to opt out or object. The Settlement Notice will be sent out in English, Spanish, and Tagalog. The Settlement Administrator will, at the time of mailing of Class Notice, cause to be published the Class Notice, the Complaint, this Settlement Agreement and the Court's Order preliminarily approving the settlement on a website designed for this settlement, with the URL for such website appearing in the mailed Class Notice.

51. Within fifteen (15) calendar days of the entry of an Order granting preliminary approval of the settlement and Class Notice, Defendant will provide the Settlement Administrator a confidential "Plaintiff Class List," which shall include the first and last name, the last known addresses, the social security number, and the number of Compensable Pay Periods, hire date, separation, during the Settlement Period. Defendant agrees to provide the confidential Plaintiff Class List to the Settlement Administrator in a readily accessible and useable electronic (such as MS Excel format). The Plaintiff Class List will not be provided to the Class Counsel, and the Settlement Administrator will keep the Plaintiff Class List confidential.

52. The Settlement Administrator will use the United States Postal Service National Change of Address ("NCOA") List to verify the accuracy of all addresses on the Plaintiff Class List before the initial mailing date to ensure that the Class Notice is sent to all Plaintiff Class Members at the addresses most likely to result in immediate receipt of the claim documents. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) calendar days of the mailing, the Class Member received the Class Notice. With respect to any returned envelopes, the Settlement Administrator will perform a routine skip trace procedure to obtain a current address and, if an updated address is located, shall then re-mail the envelope to such address promptly, but no later than five (5) days of the receipt of the returned envelope. Plaintiff Class Members to whom Class Notices were re-sent after having been returned undeliverable to the Settlement Administrator shall have twenty-one (21) days from the date of the re-mailing or the original forty-five (45) days, whichever is greater. Class Notices that are so re-mailed shall be

accompanied by a short cover letter from the Settlement Administrator informing the recipient of this adjusted deadline. No third mailing shall occur without good cause, as determined by the Settlement Administrator.

53. Class Counsel shall provide the Court, at least five (5) calendar days prior to the final approval hearing, a declaration by the Settlement Administrator of due diligence and proof of mailing with regard to the mailing of the Class Notice.

OPT-OUT AND OBJECTION PROCESSES

54. Members of the Plaintiff Class shall not be required to submit claims and/or a claim form and receive payment for their claims as set forth further in this Settlement Agreement, unless they submit a valid opt out or request for inclusion from the Settlement Class.

55. Members of the Plaintiff Class may opt out of the Settlement by following the directions in the Class Notice. Any such request must be postmarked not more than sixty (60) calendar days after the date the Class Notice is mailed to the Plaintiff Class (“Response Deadline”). Those Class Members who receive a re-mailed Class Notice will have the latter of (i) an additional twenty-one (21) days or (ii) the Response Deadline to opt out of the Settlement. Requests to opt out that do not include all required information, or that are not submitted on a timely basis, will be deemed null, void, and ineffective. Persons who are eligible to and do submit valid and timely requests to opt out of the Settlement will not participate in the Settlement, nor will they be bound by the terms of the proposed Settlement, if it is approved, or the final judgment in this Action, with the exception of claims for PAGA penalties as there is no ability to opt out of a PAGA suit.

56. By signing this agreement, the Class Representative waives his rights to opt out from the Settlement Class and any such request for an exclusion will be void and of no force and effect.

57. Objections to the Settlement must be submitted to the Settlement Administrator and postmarked not more than sixty (60) calendar days after the date the Class Notice is mailed to the Plaintiff Class. Those Class Members who receive a re-mailed Class Notice will have the latter of (i) an additional twenty-one (21) days or (ii) the Response Deadline to object to the Settlement or

dispute workweeks. The Settlement Administrator shall promptly forward any objections received to counsel for the Parties.

58. Objections must describe why the objector believes the Settlement is unfair and whether the objector intends to appear at the final approval hearing. Deficient or untimely objections shall not be considered. Class Members who fail to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, unless otherwise ordered by the Court. Class Counsel and Defendant's Counsel may, at least five (5) court days (or some other number of days as the Court shall specify) before the Final Approval Hearing, file responses to any written objections submitted to the Court.

59. Upon completion of its calculation of payments, the Settlement Administrator will provide Class Counsel and Defendant's Counsel with a report listing the amount of all payments to be made to each Settlement Class Member. The Settlement Administrator's report shall not include each Settlement Class Member's personal identifying information such as name, address, telephone number, email address, or Social Security number. After receiving the Settlement Administrator's report, Class Counsel and Defendant's Counsel shall jointly review the Settlement Administrator's report to determine if the calculation of payments to Settlement Class Members is consistent with this Settlement.

60. Defendant will not retaliate against members of the Plaintiff Class for any actions taken or not taken with respect to this Settlement or retaliate against the Class Representative Plaintiff for filing and/or pursuing the litigation. In response to any inquiry concerning the Class Representative Plaintiff, Defendant will only provide a neutral statement regarding the Class Representative as to his dates of service and job title.

AMOUNT DISPUTE PROCESS

61. The Class Notice will apprise each member of the Plaintiff Class of the approximate dates he or she held an eligible position during the Settlement Period as well as his or her total

number of Compensable Workweeks. These calculations shall be based on Defendant's records. Defendant's records are presumed to be accurate.

62. If a member of the Plaintiff Class does not wish to challenge the information set forth in the Class Notice, then the member need do nothing, and payment (so long as member of the Plaintiff Class does not opt-out of the settlement altogether) will be made based on Defendant's records.

63. If a member of the Plaintiff Class wishes to challenge the information set forth in the Class Notice, then the member must submit a written, signed challenge along with supporting documents, if any exist, to the Settlement Administrator at the address provided on the Class Notice within forty-five (45) calendar days of the date the Class Notice was mailed to the member of the Plaintiff Class (or within fifteen (15) calendar days of the date the Class Notice was re-mailed, in the circumstance described above).

64. No dispute will be considered timely if it is postmarked more than the number of days set forth in the preceding paragraph of this Agreement. Absent an agreement between Class Counsel and Defendant's Counsel regarding how to address the dispute, the Settlement Administrator shall have authority to resolve the challenge and make a final and binding determination without hearing or right of appeal. Defendant agrees to provide the Settlement Administrator with additional documents necessary to assess the challenge, if such documents exist. All disputes shall be resolved, either by agreement of Class Counsel and Defendant's Counsel, or by decision of the Settlement Administrator as provided herein, prior to submitting the Settlement Administrator's declaration to the Court for final approval.

65. Settlement checks issued to the Representative Plaintiff and Settlement Class Members shall remain valid for one hundred and eighty (180) calendar days from the date of issuance. This expiration or cancellation date shall be clearly printed on the front of the check ("Void Date"). If the Class Representative or any Settlement Class Member does not cash his or her settlement payment check(s) before the Void Date, the Settlement Administrator will send the amount represented by the check to the California State Controller Unclaimed Property, with the

identity of the Settlement Class Member to whom the funds belong, to be held for the participating Settlement Class Member per California Unclaimed Property Law, in the interest of justice. The money paid to the California State Controller Unclaimed Property will remain the Settlement Class Member's property. This will allow Settlement Class Members who did not cash their checks to collect their Individual Settlement Share at any time in the future. Therefore, there will be no unpaid residue or unclaimed or abandoned class member funds, and the California Code of Civil Procedure section 384 shall not apply. The funds will be held by the State until claimed by the employee and the uncashed check never ceases to be the employee's property. Settlement checks can be reissued to Settlement Class Members upon request within this 180-day period, but any reissued checks shall have the same Void Date as the original settlement check. Those Settlement Class Members who fail to cash their settlement checks by the Void Date will be deemed to have waived irrevocably any right in or claim to any proceeds from the Settlement and to any payments by Defendant, but the terms of this Agreement shall remain binding upon them.

RELEASES

66. By Settlement Class Members. All members of the Plaintiff Class who do not timely request exclusion, and the State of California release the Defendant Releasees from any and all debts, liabilities, costs, demands, obligations, claims, causes of action, or complaints arising during the Settlement Period that were pled, or which could have been pled based on the same facts as pled in the Plaintiff's operative Complaint, all preceding Complaints, and the LWDA letters. This includes claims relating to the alleged failure of the Defendant to provide any of the Class Members with compensation as required by law relating to wages, claims for overtime hours worked, meal periods, rest periods, business expense reimbursements, itemized wage statement/pay stub violations, civil penalties, or waiting-time penalties as required by law or regulations, the failure to pay penalties, or that are based upon, or derive from the claims asserted in the Action, including claims under Labor Code sections 201, 202, 203, 204, 210, 226(a) and (e), 226.3, 226.7, 246 (h), 510, 512, 1194, 1197, 1198, and 2802 as well as IWC Wage Order No. 5 sections 3, 7, 11, and 12 and section 17200 et. Seq. of. the California Business and Professions Code, based on the foregoing

(the “Released Claims”), as well as any civil penalty claims predicated on the claims alleged in the Complaint under PAGA, Labor Code 2699 et seq., as well as claims for interest, costs, attorneys’ fees, compensatory damages, and all claims for restitution and other equitable relief, injunctive relief, liquidated damages, and any other remedies owed or available under the law related to the facts set forth in the Action.

67. By the Class Representative. In consideration for the service payments being paid to the Class Representative, upon the Court’s approval of the settlement, Class Representative hereby fully and finally releases and discharges the Defendant Releasees from all known and unknown claims that the Class Representative may have against the Defendant Releasees, of every nature or description whatsoever, up to the date of the Court’s final approval of the Settlement, in addition to the Settlement Members’ released claims described above. This general release of claims includes any and all known or unknown contract, tort, statutory, common law, constitutional, discrimination, public policy, retaliation, wrongful discharge, and other claims of any type whatsoever, to the fullest extent such claims are releasable by law, arising out of the Class Representative’s employment with Defendant, and any other dealings with the Defendant Releasees. The Representative Plaintiff waives all rights and benefits afforded by § 1542 of the California Civil Code, 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 RELEASING PARTY.

Accordingly, if the facts relating in any manner to this Settlement Agreement are found hereafter to be other than or different from the facts now believed to be true, the general release contained herein shall remain effective. The Class Representative and Defendant acknowledges that the foregoing general release was separately bargained for and is a material element of the settlement.

DUTIES OF THE PARTIES PRIOR TO FINAL COURT APPROVAL

68. Class Counsel will be responsible for drafting all documents necessary to obtain preliminary approval. Class Counsel shall promptly submit this Settlement Agreement to the Court in support of Class Representative's Motion for Preliminary Approval for determination by the Court as to its fairness, adequacy, and reasonableness and apply for the entry of a preliminary Order substantially in the following form:

- a. Scheduling a fairness hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable, and adequate as to the Plaintiff Class;
- b. Approving the proposed Class Notice;
- c. Preliminarily approving the settlement; and
- d. Preliminarily certifying the Plaintiff Class for purposes of settlement only.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

69. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the final approval hearing. Following final approval by the Court of this Settlement Agreement, Class Counsel will submit a proposed final Order and judgment:

- a. Approving the Settlement Agreement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- b. Approving and awarding Class Counsel's fees and costs, the settlement administration costs, and the enhancement awards as set forth in the Settlement Agreement; and
- c. Entering judgment in accordance with the terms and conditions of the Settlement Agreement and retaining jurisdiction over the Parties to enforce the terms of the judgment.

RIGHT TO WITHDRAW

70. Notwithstanding any other provision contained in this Settlement, if more than five percent (5%) or more of the Plaintiff Class submit timely and valid requests for exclusion from the settlement during the opt-out period outlined herein, Defendant shall have the option (but not the obligation), in its sole discretion, to withdraw from this settlement (“Right to Withdraw”), whereupon the settlement shall be null and void for any and all purposes and may not be used or introduced in the Action or any other proceeding. In that instance, the parties will be restored to their respective positions in the litigation as if this settlement was never negotiated, drafted, or agreed upon. However, if Defendant exercises its Right to Withdraw, Defendant will be responsible for all Settlement Administration Costs incurred up to the date when the Defendant exercises its Right to Withdraw. The Settlement Administrator shall notify Class Counsel and Counsel for Defendant of the number of timely opt-outs within five (5) business days after the expiration of the right of the Plaintiff Class Members to opt-out of the settlement. If Defendant elects to exercise its Right to Withdraw under this provision, Defendant will so notify Class Counsel and the Court no later than three (3) business days after receiving notice of the number of opt-outs.

71. If the Court does not approve any material condition of this Settlement Agreement or effects a fundamental change of the Parties’ settlement, with the exception of any changes to the Class Notice, the award of Class Counsel’s fees/costs, and/or the award of an enhancement award, then the entire Settlement Agreement will be voidable and unenforceable at the option of either Party hereto. In such case, the settlement shall not be used or be admissible in any subsequent proceeding, either in the Action, or in any other Court or forum. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning. Any funds paid into the Settlement Fund shall be returned to the Defendant, less any deductions for reasonable costs incurred by the Settlement Administrator.

72. Either Party may void this Settlement Agreement as provided in the preceding paragraph in this Settlement Agreement, by giving notice in writing to all other Parties and the Court at any time prior to final approval of the Settlement Agreement by the Court.

PARTIES' AUTHORITY

73. Counsel for all Parties warrant and represent they are expressly authorized by the Parties for whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

74. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

MUTUAL FULL COOPERATION

75. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant's Counsel, take all necessary steps to secure the Court's final approval of this Settlement Agreement.

76. Defendant understands that, in the course of applying for settlement approval, Class Representative may be required to submit sufficient evidence to support the fairness of the proposed settlement terms. Defendant affirmatively agrees to assist and support the Class Representative in

providing such evidence and, if requested by the Class Representative, will provide declaration(s) or other admissible evidence reflecting class size, compensation information, and Compensable Workweeks worked during the Settlement Period.

77. The Parties agree that neither they nor their counsel will solicit or otherwise encourage, directly or indirectly, Class Members to request exclusion from the Settlement Class, object to the settlement, or appeal the final judgment.

78. No Public Comment. The Parties and their counsel agree that they will not publicize or issue or post any press releases , advertising, marketing, or initiate any contact with the media or press about the facts, amount or terms of the settlement prior to the Court's entry of an Order preliminarily approving this agreement and accompanying papers/notices. Rather, the Parties wish to buy their respective peace in agreeing to resolve the Action.

79. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

NO ADMISSION OF LIABILITY

80. Each of the Parties has entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant risk, inconvenience, and expense. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. This Settlement Agreement is a settlement document and shall, pursuant to California Evidence Code Section 1152, et seq., be inadmissible as evidence in any proceeding. The preceding sentence shall not apply to an action or proceeding to approve, interpret, or enforce the terms of this Settlement Agreement, including the assertion of the Settlement Agreement as an affirmative defense or bar to other or further claims or suits.

ENFORCEMENT OF THE SETTLEMENT AGREEMENT

77. In the event that one or more of the Parties to this Settlement Agreement institutes any legal action, arbitration, or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the prevailing Party or Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions. The Parties agree that no new action need be commenced for the purpose of enforcing the provisions of this Settlement Agreement and that either party may seek the recovery of fees and/or costs upon noticed motion therefor. The Parties agree that time is of the essence with regard to the performance of all terms in this Settlement Agreement and that all dates and deadlines set forth herein are deemed material terms and exchanged and considerations for all other terms.

NOTICES

81. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Settlement Agreement shall be (a) in writing, (b) deemed given on the third business day after mailing, and (c) sent via United States registered or certified mail, return receipt requested, addressed as follows:

To Class Representative:

Craig J. Ackerman
ACKERMANN & TILJEF, P.C.
1180 South Beverly Drive, Suite 610
Los Angeles, California 90035
Email: cja@ackermanntilajef.com
Telephone: (310) 277-0614

Amir Seyedfarshi
EMPLOYMENT RIGHTS LAW GROUP APC
1180 South Beverly Drive, Suite 610
Los Angeles, California 90035
Email: amir@employmentrightslawgroup.com
Telephone: (310) 777-0964

To Defendant:

Ann K. Smith
ATKINSON, ANDELSON, LOYA, RUUD, & ROMO
12800 Center Court Drive South, Suite 300
Cerritos, California 90703
Email: ASmith@aalrr.com
Telephone: (562) 653-3408

CONSTRUCTION AND INTERPRETATION

82. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any of the Parties by reason of their participation in the drafting of this Settlement Agreement.

83. Paragraph titles are inserted as a matter of convenience and for reference, and in no way define, limit, extend and/or describe the scope of this Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual and not merely a recital.

84. This Agreement shall be subject to and governed by the laws of the State of California. The parties acknowledge that they are subject to the continuing jurisdiction of the Court to enforce the terms of the Settlement contained herein.

MODIFICATION

85. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by counsel for the Parties, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by counsel for the Parties.

INTEGRATION CLAUSE

86. This Settlement Agreement contains the entire agreement between the Parties relating to any and all matters addressed in the Settlement Agreement, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by

a Party or such Party's legal counsel, with respect to such matters are extinguished. No rights hereunder may be waived or modified except in a writing signed by all Parties.

BINDING ON ASSIGNS

87. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

CLASS COUNSEL SIGNATORIES

88. It is agreed that it is impossible or impractical to have each member of the Plaintiff Class execute this Settlement Agreement. The Notice will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if each member of the Plaintiff Class executed this Settlement Agreement.

COUNTERPARTS

89. This Settlement 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 Settlement Agreement, which shall be binding upon and effective as to all Parties. Copies of the executed agreement shall be effective for all purposes as though the signatures contained therein were original signatures.

IT IS SO AGREED:

CLASS REPRESENTATIVE:

DATED: _____, 2021
08 / 05 / 2021

By: 
ANDREI LIM
Class Representative

DEFENDANT:

DATED: 8/19/2021, 2021

TOKYO TERIYAKI D.B.A. CHOWKING


President
Title

APPROVED AS TO FORM:

CLASS COUNSEL:

DATED: _____, 2021
08 / 05 / 2021

ACKERMANN & TILAJEF, P.C.

By: 

Craig J. Ackermann
Attorney for the Representative
Plaintiff and the Plaintiff Class

DATED: _____, 2021
08 / 05 / 2021

EMPLOYMENT RIGHTS LAW GROUP APC

By: 

Amir Seyedfarshi
Attorney for the Representative
Plaintiff and the Plaintiff Class

DEFENDANT'S COUNSEL:

DATED: 08 / 20, 2021

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: 

Ann K. Smith
Sarkis A. Atoyan
Attorneys for Defendant TOKYO TERIYAKI
D.B.A. CHOWKING

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DOCUMENT ID	2f19a995e668bad4c8a9dbd3479bcf0bc75faede
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
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SENT

08 / 05 / 2021

23:01:02 UTC

Sent for signature to Andrei Lim (limandreid@gmail.com) and Jaclyn Blackwell (jb@ackermanntilajef.com) from amir@employmentrightslawgroup.com
IP: 76.167.87.96



VIEWED

08 / 05 / 2021

23:02:54 UTC

Viewed by Jaclyn Blackwell (jb@ackermanntilajef.com)
IP: 76.167.87.96



SIGNED

08 / 05 / 2021

23:03:02 UTC

Signed by Jaclyn Blackwell (jb@ackermanntilajef.com)
IP: 76.167.87.96



VIEWED

08 / 06 / 2021

04:16:01 UTC

Viewed by Andrei Lim (limandreid@gmail.com)
IP: 172.56.30.131



SIGNED

08 / 06 / 2021

04:17:13 UTC

Signed by Andrei Lim (limandreid@gmail.com)
IP: 172.56.30.131



COMPLETED

08 / 06 / 2021

04:17:13 UTC

The document has been completed.