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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

CARRIE BALDWIN, individually and on
behalf of the putative class,

Plaintiff,

v.

PATAGONIA, INC., a corporation; GREAT
PACIFIC IRON WORKS, a corporation; and
DOES 1-50, Inclusive,

Defendant.

Case No.: 20STCV40245
Assigned to: Hon. Maren Nelson, Dept.: 17

**AMENDED STIPULATION AND
SETTLEMENT OF CLASS,
COLLECTIVE AND
REPRESENTATIVE ACTION**

[Complaint Filed: August 6, 2020]

**STIPULATION AND SETTLEMENT OF CLASS, COLLECTIVE
AND REPRESENTATIVE ACTION**

I. Subject to final approval by the Court, which counsel and the Parties agree to diligently pursue and recommend in good faith, Plaintiff Carrie Baldwin (“Plaintiff”), individually and on behalf of all others similarly situated and alleged aggrieved employees, on the one hand, and Defendants Patagonia, Inc. and Great Pacific Iron Works (together, “Defendants”), on the other hand (collectively, the “Parties” and individually, a “Party”), hereby agree to the following amended binding settlement of the class and representative action designated Carrie Baldwin v. Patagonia, Inc. et al., Los Angeles County Superior Court Case No. 20STCV40245, as amended (the “Action”), pursuant to the terms and conditions set forth below (the “Settlement,” “Settlement Agreement” or “Agreement”). Upon the Effective Date, and the payment by Defendants of all monies due under the Agreement, Plaintiff shall file with the Court (1) a Satisfaction of Judgment; and (2) a declaration from the Settlement Administrator certifying that all payments have been distributed, as more fully set forth herein.

II. Definitions.

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

A. “Action.”

The case titled Carrie Baldwin v. Patagonia, Inc. et al., Los Angeles County Superior Court Case No. 20STCV40245, as amended.

B. “Aggrieved Employees.”

All current and former non-exempt employees of Defendants employed in California at any time during the PAGA Period.

C. “Amended Complaint.”

The amended complaint Plaintiff filed on May 9, 2022, after seeking and receiving Court approval, to add a claim under the California Private Attorneys General Act (“PAGA”), and any and all other claims/causes of action encompassed by the Released Claims.

1 **D. “Attorneys’ Fees and Costs.”**

2 The attorneys’ fees agreed upon by the Parties and approved by the Court for Class
3 Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class
4 Counsel in the Action, including, but not limited to, costs associated with documenting the
5 Settlement, securing the Court’s approval of the Settlement, any expert expenses, and securing an
6 entry of judgment on all claims in the Action which are covered by the Released Claims as defined
7 herein. Class Counsel will request attorneys’ fees not to exceed one-third (1/3) of the Class
8 Settlement Amount of \$500,000.00, which is a total of \$166,666.67. The costs requested to be
9 reimbursed will not exceed \$18,000.00. The attorneys’ fees and costs awarded are subject to the
10 Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for attorneys’
11 fees and reimbursement of costs and expenses as set forth above. Such Attorneys’ Fees and Costs
12 shall be paid from the Class Settlement Amount. Class Counsel will be issued an IRS Form 1099
13 for the Attorneys’ Fees and Costs detailed in this Section and shall be solely and legally
14 responsible for paying all applicable taxes on the payment made pursuant to this Section.

15 **E. “Claims Administrator.”**

16 ILYM Group, Inc. shall be the third-party class action settlement claims
17 administrator as agreed to by the Parties and approved by the Court for the purposes of
18 administering this Settlement. The Parties each represent that they do not have any financial
19 interest in the Claims Administrator or otherwise have a relationship with the Claims
20 Administrator that could create a conflict of interest.

21 **F. “Claims Administration Costs.”**

22 The costs payable from the Class Settlement Amount to the Claims Administrator
23 for administering this Settlement, including, but not limited to, printing, distributing, and tracking
24 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,
25 distributing the Class Settlement Amount, and providing necessary reports and declarations, and
26 other duties and responsibilities set forth herein to process this Settlement Agreement, and as
27 requested by the Parties. The Claims Administration Costs will be paid from the Class Settlement
28 Amount, including, if necessary, any such costs in excess of the amount represented by the Claims

1 Administrator as being the maximum costs necessary to administer the Settlement. The Claims
2 Administration Costs are currently estimated to be \$20,000.00. To the extent actual Claims
3 Administration Costs are greater than \$20,000.00, such excess amount will be deducted from the
4 Class Settlement Amount, subject to the Court's approval. The Claims Administration Costs will
5 be paid no sooner than fifteen (15) calendar days following the Effective Date.

6 **G. "Class Counsel."**

7 Attorneys for Labor Law PC and David Yeremian & Associates, Inc. shall be
8 appointed Class Counsel upon approval by the Court.

9 **H. "Class List."**

10 A complete list of all Class Members that Defendants will diligently and in good
11 faith compile from their records and provide to the Claims Administrator within fourteen (14)
12 calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a
13 readable Microsoft Office Excel spreadsheet and will include each Class Member's full name,
14 most recent mailing address, telephone number, Social Security number, dates of employment
15 (*i.e.*, hire date and termination date, if applicable), approximate number of workweeks, and any
16 other relevant information needed to calculate settlement payments.

17 **I. "Class Member(s)" or "Settlement Class."**

18 All current and former non-exempt employees of Defendants employed in
19 California at any time during the Class Period.

20 **J. "Class Period."**

21 The period from August 6, 2016 through August 19, 2022.

22 **K. "Class Representative Enhancement Payment."**

23 The amount to be paid to Plaintiff in recognition of her effort and work in
24 prosecuting the Action on behalf of Class Members and for her general release of all claims.
25 Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request
26 Court approval of a Class Representative Enhancement Payment of \$7,500. Plaintiff will be
27 issued an IRS Form 1099 in connection with her respective Class Representative Enhancement
28 Payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes

1 on this payment and shall hold Defendants harmless from any claim or liability for taxes, penalties
2 or interest arising as a result of the payment. The Class Representative Enhancement Payment
3 will be paid from the Class Settlement Amount and will be in addition to Plaintiff's Individual
4 Settlement Payment paid pursuant to the Settlement, and is conditioned on the execution of a
5 stand-alone settlement agreement and general release of all claims (which includes the Plaintiff's
6 Released Claims and shall be set forth more-fully in the stand-alone settlement agreement and
7 general release of all claims). Defendants make no representations as to the tax treatment or legal
8 effect of the payment called for herein, and Plaintiff is not relying on any statement or
9 representation by Defendants or their counsel in this regard.

10 **L. "Class Settlement Amount."**

11 The sum of no more than \$500,000.00 to be paid by Defendants in full satisfaction
12 of all claims arising from the Action. The Class Settlement Amount includes all Individual
13 Settlement Payments to Class Members, Individual PAGA Settlement Payments to Aggrieved
14 Employees, the Class Representative Enhancement Payment to Plaintiff, Claims Administration
15 Costs to the Claims Administrator, the Labor and Workforce Development Agency ("LWDA")
16 Payment, and the Attorneys' Fees and Costs. Defendants will be responsible for any employer
17 payroll taxes required by law, separate and in addition to the Class Settlement Amount, including
18 the employer FICA, FUTA, and SDI contributions on the wage portion of the Individual
19 Settlement Payments.

20 **M. "Defendants."**

21 Patagonia, Inc. and Great Pacific Iron Works.

22 **N. "Effective Date."**

23 The date on which the Final Award becomes final. For purposes of this Section,
24 the Final Award "becomes final" only after the Court grants the Motion for Final Approval and
25 upon service of the Notice of Entry of Order and/or Judgment, and upon the latter of: (i) if no
26 appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other
27 challenge to, the Order Granting Final Approval and/or Judgment (this time period shall not be
28 less than seventy (70) calendar days after the Court's Order is entered); (ii) the date of affirmance

1 of an appeal of the Order Granting Final Approval and/or Judgment becomes final under the
2 California Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting
3 Final Approval and/or Judgment or the final dismissal of any proceeding on review of any court of
4 appeal decision relating to the Order Granting Final Approval and/or Judgment.

5 **O. “Final Approval” or “Final Award.”**

6 The Court entering an Order Granting Final Approval of the Settlement Agreement
7 and Judgment.

8 **P. “Individual Settlement Payment.”**

9 Each Class Member’s share of the Net Settlement Amount, which shall be
10 distributed to the Class Members, less employee portions of state and federal withholding taxes,
11 including the employee FICA, FUTA and SDI contributions and any other applicable payroll
12 deductions required by law as a result of the payment of the amount allocated to such Class
13 Member as set forth herein.

14 **Q. “LWDA Notice.”**

15 The Parties agree that Plaintiff will submit Notice to the Labor and Workforce
16 Development Agency (“LWDA”) of this Settlement along with a copy of this Settlement
17 Agreement within ten (10) calendar days of its execution by all Parties and Class Counsel, and
18 will thereafter submit a copy of any judgment or any other order (*e.g.*, the Final Award) providing
19 for an award of civil penalties in conformity with Labor Code Section 2699(1).

20 **R. “LWDA Payment” or “PAGA Settlement Amount.”**

21 The amount that the Parties have agreed to pay to the LWDA in connection with
22 the California Private Attorneys General Act of 2004 (“PAGA”). The Parties have agreed that
23 \$20,000.00 of the Class Settlement Amount will be allocated to the resolution of any claims
24 arising under PAGA (“PAGA Settlement Amount”) as set forth in the Released Aggrieved
25 Employee Claims. Pursuant to PAGA, \$15,000.00 (75%) of the PAGA Settlement Amount will
26 be paid to the LWDA and \$5,000.00 (25%) of the PAGA Settlement Amount will be distributed to
27 Aggrieved Employees. The 25% portion of the PAGA Settlement Amount is referred to as
28 Aggrieved Employees Amount.

1 **S. “Net Settlement Amount.”**

2 The portion of the Class Settlement Amount remaining after deduction of the
3 approved Class Representative Enhancement Payment, Claims Administration Costs, LWDA
4 Payment, PAGA Settlement Amount, and the Attorneys’ Fees and Costs.

5 **T. “Notice of Class Action Settlement.”**

6 The document substantially in the form attached as Exhibit 1 that will be mailed to
7 Class Members’ last known addresses and which will provide Class Members with information
8 regarding the Action and information regarding the Settlement.

9 **U. “Notice of Objection.”**

10 The Court may hear from any Class Member who attends the final approval hearing
11 and asks to speak regarding his or her objection. In order for any Class Member to object to this
12 Settlement, or any term of it, the person making the objection must not submit a request for
13 exclusion (i.e., must not opt out). While not required, the preferred method by which any Class
14 member may to object to this Settlement, or any term of it, is that the objecting Class Member, by
15 no later than sixty (60) days after the Notice of Proposed Class Action Settlement was initially
16 mailed to the Class Members, mail or fax to the Settlement Administrator a written statement of
17 the grounds of objection, signed by the objecting Class Member or his or her attorney, along with
18 all supporting papers. All such objections and written notices of intention to appear should be
19 signed and contain the Class Member’s name and address and the address of counsel, if any. If
20 submitted in this manner, the objection should clearly explain why the settlement class member
21 objects to the Settlement and state whether the Class Member (or someone on their behalf) intends
22 to appear at the Final Approval Hearing. The Settlement Administrator shall immediately upon
23 receipt transmit to the Parties’ counsel copies of all objections and supporting papers. The Parties
24 then shall file any objections received in this manner and all supporting papers with the Court as
25 soon as practicable but not more than three (3) business days after receipt. A Class Member may
26 appear personally or through an attorney, at his or her own expense, at the Final Approval hearing
27 to present his or her objection directly to the Court. If a Class Member objects to this Settlement,
28 the Class Member will remain a member of the Settlement Class and if the Court approves this

1 Agreement, the Class Member will be bound by the terms of the Settlement and Final Approval in
2 the same way and to the same extent as a settlement class member who does not object. The Court
3 retains final authority with respect to the consideration and admissibility of any Class Member
4 objections.

5 Neither the Parties nor their counsel will solicit or otherwise encourage Class
6 Members to submit written objections to the Settlement Agreement or appeal from the Order and
7 Judgment. Class Counsel will not represent any Class Members with respect to any such
8 objections to this Settlement.

9 **V. “Notice Packet.”**

10 The Notice of Class Action Settlement, Individual Settlement Payment
11 calculations, and Individual PAGA Payment calculations to include workweek information.

12 **W. “PAGA Period.”**

13 The period from August 6, 2019 through August 19, 2022.

14 **X. “Plaintiff.”**

15 Plaintiff Carrie Baldwin.

16 **Y. “Plaintiff’s Released Claims.”**

17 Upon the Effective Date, and as a condition of receiving any portion of her Class
18 Representative Enhancement Payment, Plaintiff shall fully and finally release the Released Parties
19 from any and all claims, known and unknown, under federal, state and/or local law, statute,
20 ordinance, regulation, common law, or other source of law, including but not limited to claims
21 arising from or related to her employment with Defendants and her compensation while an
22 employee of Defendants. Plaintiff’s Released Claims shall be set forth more-fully in the stand-
23 alone settlement agreement and general release of all claims. Plaintiff’s Released Claims include,
24 but are not limited to, all claims arising from or related to the Action. Plaintiff’s Released Claims
25 include all claims for unpaid wages, including, but not limited to, failure to pay minimum wages,
26 straight time compensation, overtime compensation, double-time compensation, and interest; the
27 calculation of the regular rate of pay; wages related to alleged illegal time rounding; failure to pay
28 wages at least twice each calendar month; failure to timely pay wages; failure to timely pay final

1 wages; missed/short/late/interrupted meal period, rest period, and/or recovery period
2 wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods
3 and/or recovery periods; the calculation of meal period, rest period, and/or recovery period
4 premiums; reimbursement for all necessary business expenses, including work-related cell-phone
5 expenses and car mileage for work-related travel; payment for all hours worked, including off-the-
6 clock work; wage statements; deductions; failure to keep accurate records; failure to provide
7 suitable seating; failure to maintain temperature providing reasonable comfort; unlawful
8 deductions and/or withholdings from wages; unfair business practices; penalties, including, but not
9 limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-
10 wage penalties, and waiting-time penalties; and attorneys' fees and costs. Plaintiff's Released
11 Claims include all claims arising under the California Labor Code (including, but not limited to,
12 sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 204.1, 204.2, 206, 210, 216, 218, 218.5,
13 218.6, 221, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 247.5, 248.5, 256, 450, 510, 511, 512, 515,
14 516,558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1197.2, 1198, 1198.5,
15 2698 *et seq.*, 2699 *et seq.*, 2802, and 2804); all claims arising under: the Wage Orders of the
16 California Industrial Welfare Commission; the California Private Attorneys General Act of 2004
17 (PAGA); California Business and Professions Code section 17200, *et seq.*; the California Civil
18 Code, to include sections 3287, 3336 and 3294; 8 CCR §§ 3203, 11070, 11090, 11100; California
19 Code of Civil Procedure § 1021.5; all state and local ordinances related to COVID-19 right of
20 recall; the California common law of contract; the FLSA, 29 U.S.C. §§ 201, *et seq.*; 29 CFR
21 778.223; 29 CFR 778.315; federal common law; and the Employee Retirement Income Security
22 Act, 29 U.S.C. §§ 1001, *et seq.* (ERISA). Plaintiff's Released Claims also include all claims for
23 lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and
24 costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and
25 wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. § 1981, Title VII
26 of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age
27 Discrimination in Employment Act (ADEA), and the California Fair Employment and Housing
28

1 Act (FEHA); and the law of contract and tort. This release excludes the release of claims not
2 permitted by law.

3 Plaintiff's Released Claims include all claims, whether known or unknown. Even
4 if Plaintiff discovers facts in addition to or different from those that she now knows or believes to
5 be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
6 released and forever barred. Thus, Plaintiff expressly waives and relinquish the provisions, rights
7 and benefits of section 1542 of the California Civil Code, which reads:

8 **A general release does not extend to claims that the creditor or releasing party**
9 **does not know or suspect to exist in his or her favor at the time of executing**
10 **the release and that, if known by him or her, would have materially affected**
11 **his or her settlement with the debtor or released party.**

12 **Z. "Released Aggrieved Employee Claims."**

13 All Aggrieved Employees, including those who timely and effectively exclude
14 themselves from the Released Class Claims, shall nevertheless be bound by the Released
15 Aggrieved Employee Claims and shall receive a pro rata portion of 25% of the PAGA Settlement
16 Amount. Aggrieved Employees who timely and effectively exclude themselves from the Released
17 Class Claims shall have their PAGA claims released only for the PAGA Period. Plaintiff and all
18 Aggrieved Employees, on behalf of themselves and their respective former and present
19 representatives, agents, attorneys, heirs, administrators, successors, and assigns, and the State of
20 California / LWDA, shall release the Released Parties from all claims, rights, demands, liabilities,
21 and causes of action, for PAGA civil penalties alleged in the Action or reasonably could have been
22 alleged, based on the facts stated in the operative First Amended Complaint, and August 6, 2020
23 LWDA exhaustion letter identified on the LWDA's website as LWDA-CM-801582-20. The
24 PAGA Released Claims include those arising out of the following: California Minimum Wage
25 Order (MW-2014), Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.2, 226.3,
26 226.7, 510, 558, 1194, 1194.2, 1194.3, 1197, 1198, and 2698. Further, such claims, rights,
27 demands, liabilities, and causes of action include those for PAGA civil penalties for unpaid wages,
28 including, but not limited to, failure to pay minimum wages, straight time compensation, overtime

1 compensation, double-time compensation, and interest; failure to pay wages at least twice each
2 calendar month; failure to timely pay wages; missed/short/late/interrupted meal period and rest
3 period premiums; failure to provide meal periods; failure to authorize and permit rest periods; the
4 calculation of meal and rest period premiums; reimbursement for all necessary business expenses,
5 including work-related cell-phone expenses and car mileage for work-related travel; payment for
6 all hours worked, including off-the-clock work; failure to provide/furnish accurate itemized wage
7 statements; failure to timely pay final wages; and unlawful deductions and/or withholdings from
8 wages.

9 **AA. "Preliminary Approval."**

10 The Court's order granting preliminary approval of the Settlement Agreement.

11 **BB. "Qualified Settlement Account."**

12 The fund established by the Claims Administrator pursuant to Internal Revenue
13 Code Section 1.468B-1.

14 **CC. "Released Class Claims."**

15 As of the date of the Order Granting Final Approval, and only after the Settlement has
16 been fully funded by Defendants, all Class Members shall fully and finally release Released
17 Parties of the Released Class Claims. The Released Class Claims include any and all claims
18 alleged in the Action or reasonably could have been alleged, based on the facts stated in the
19 operative First Amended Complaint and/or August 6, 2020 LWDA exhaustion letter identified on
20 the LWDA's website as LWDA-CM-801582-20.

21 The Released Class Claims include all claims for unpaid wages, including, but not limited
22 to, claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight
23 time compensation, overtime compensation, double-time compensation, and interest; the
24 calculation of the regular rate of pay; wages related to alleged unlawful time rounding; on-call
25 pay; travel time pay; failure to pay wages at least twice each calendar month; failure to timely pay
26 wages; missed/short/late/interrupted meal period and rest period premiums; failure to provide meal
27 periods; failure to authorize and permit rest periods; the calculation of meal and rest period
28 premiums; reimbursement for all necessary business expenses, including work-related cell-phone

1 expenses and car mileage for work-related travel; payment for all hours worked, including off-the-
2 clock work; failure to provide/furnish accurate itemized wage statements; deductions; failure to
3 keep/maintain accurate records; failure to timely pay final wages; unlawful deductions and/or
4 withholdings from wages; unfair business practices; penalties, including, but not limited to,
5 recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties,
6 and waiting-time penalties; and attorneys' fees and costs; for civil and statutory penalties,
7 including wage statement and payroll reporting penalties, record keeping penalties, minimum
8 wage penalties, penalties for personnel file violations; attorneys' fees and costs; and unfair
9 business practices related to the Released Class Claims. The Released Class Claims also include
10 but are not limited to all such claims arising under: California Labor Code sections 200, 201, 202,
11 203, 204, 210, 218, 218.5, 218.6, 225.5, 225, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1174,
12 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1198.5, 1199, 2698 *et seq.*, 2699 *et*
13 *seq.*, and 2802; all claims arising under the California Private Attorneys General Act of 2004
14 ("PAGA") related to the Released Claims and Released Aggrieved Employee Claims; all claims
15 relating to the Released Class Claims under the California Business and Professions Code
16 section 17200, *et seq.*; all claims relating to the Released Claims under the applicable Wage
17 Orders of the California Industrial Welfare Commission; California Civil Code sections 3287,
18 3288; and California Code of Civil Procedure § 1021.5. The Released Claims include those under
19 the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations,
20 29 U.S.C. §211(c); 29 C.F.R. §§ 516, 778.223, 778.315, *et seq.*

21 The following language will be printed on the reverse of each Settlement Payment Check,
22 or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I
23 read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I
24 consent to join in the Fair Labor Standards Act ("FLSA") portion of the [Actions], elect to
25 participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that
26 are covered by the Settlement."

27 Upon entry of Judgment, Class Members are precluded from filing a wage and hour action
28 under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action

1 encompassed by the Released Claims which are extinguished and precluded pursuant to the
2 holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release
3 excludes the release of claims not permitted by law, including but not limited to claims brought for
4 workers' compensation benefits, and alleged violations occurring outside the Class Period.

5 **DD. "Released Parties."**

6 Defendants and their past, present, and future parents, subsidiaries, affiliated
7 companies (including but not limited to, Patagonia Works, and all of its subsidiaries and
8 affiliates), agents, managing agents, employees, servants, officers, directors, owners (whether
9 direct or indirect), general partners, limited partners, trustees, representatives, shareholders,
10 stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity
11 sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors,
12 successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint
13 employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers,
14 co-employers, potential and/or alleged co-employers, common law employers, potential and
15 alleged common law employers, contractors, affiliates, service providers, alter-egos, potential
16 and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential
17 or alleged to have joint liability, and all of their respective past, present and future employees,
18 directors, officers, members, owners, agents, representatives, payroll agencies, attorneys,
19 stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all
20 persons and/or entities acting under, by, through or in concert with any of them.

21 **EE. "Request for Exclusion."**

22 A notice submitted by a Class Member requesting to be excluded from the
23 Settlement. A Request for Exclusion is a letter from a Class Member or his/her representative that
24 reasonably communicates the Class Member's election to be excluded from the Settlement and
25 includes the Class Member's name, address and email address or telephone number. To be valid, a
26 Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
27 The date of the postmark email or fax receipt confirmation will be the exclusive means to
28 determine whether a Request for Exclusion has been timely submitted. A Class Member who

1 does not submit a timely and valid Request for Exclusion from the Settlement will be deemed a
2 Class Member and will be bound by all terms of the Settlement Agreement if the Settlement is
3 granted Final Approval by the Court. Any Class Member who timely submits a valid Request for
4 Exclusion will not receive payment from the Settlement, and will not be bound by the terms of the
5 Settlement Agreement or Judgment (with the exception of claims arising under PAGA).
6 Aggrieved Employees eligible for a portion of the PAGA Settlement Amount will receive their
7 share of the employee portion of the PAGA Settlement Amount and will be deemed to have
8 released the Released Aggrieved Employee Claims, regardless of whether they submit a Request
9 for Exclusion.

10 **FF. “Response Deadline.”**

11 The deadline by which Class Members must mail or fax to the Claims
12 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or workweek
13 disputes. The Response Deadline will be sixty (60) calendar days from the initial mailing of the
14 Notice Packet by the Claims Administrator, unless the 60th day falls on a Sunday or Federal
15 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
16 Postal Service is open. The Response Deadline for Requests for Exclusion, Notices of Objection,
17 or workweek disputes will be extended fifteen (15) calendar days for any Class Member who is re-
18 mailed a Notice Packet by the Claims Administrator, unless the 15th day falls on a Sunday or
19 Federal holiday, in which case the Response Deadline will be extended to the next day on which
20 the U.S. Postal Service is open. The Response Deadline may also be extended by express
21 agreement between Class Counsel and Defendants. Under no circumstances, however, will the
22 Claims Administrator have the authority to unilaterally extend the deadline for Class Members to
23 submit a Request for Exclusion, Notice of Objection to the Settlement, or workweek disputes.

24 **GG. “Settlement Payment Check.”**

25 The payment to Class Members. The back of the Settlement Payment Check shall
26 state, immediately below the space where the check is to be endorsed by the payee: “By endorsing
27 or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms
28 set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards

1 Act ("FLSA") portion of the [Action], elect to participate in the settlement of the FLSA claims,
2 and agree to release all of my FLSA claims that are covered by the Settlement."

3 **III. Funding of the Class Settlement Amount.**

4 Within fifteen (15) calendar days after the Effective Date of the Settlement,
5 Defendants will make a one-time deposit of the Class Settlement Amount into a Qualified
6 Settlement Account to be established by the Claims Administrator as well as an amount sufficient
7 to pay the employer's share of payroll taxes with respect to the wages portion of the Individual
8 Settlement Payments. Within fourteen (14) calendar days of the funding of the Settlement, the
9 Claims Administrator will issue payments to: (a) Class Members who have not timely and validly
10 requested exclusion; (b) Aggrieved Employees; (c) the LWDA; (d) Plaintiff; and (e) Class
11 Counsel. The Claims Administrator will also issue a payment to itself for Court-approved services
12 performed in connection with the Settlement. Defendants have no obligation to deposit such funds
13 prior to the deadline set forth herein. Prior to issuing checks to Class Members, the Claims
14 Administrator will run the Class Members' most updated addresses against the National Change of
15 Address Database to obtain the most current address for mailing the checks. If a check is returned
16 as undeliverable from Class Members whose Notice Packet was returned and no new address was
17 ascertained, then no further steps need to be taken. For other checks returned, the Claims
18 Administrator shall conduct a skip trace or other similar search to locate an updated address and
19 the Claims Administrator shall re mail the check within seven (7) business days of return of the
20 check.

21 **IV. Attorneys' Fees and Costs.**

22 Defendants agree not to oppose or impede any application by Class Counsel for
23 attorneys' fees of not more than \$166,666.67, or the reimbursement of costs and expenses
24 associated with Class Counsel's litigation and settlement of the claims covered by the Action not
25 to exceed \$18,000.00. No counsel shall be entitled to attorneys' fees or costs for work performed
26 in the Action other than as provided in this Settlement Agreement. The instant Settlement
27 Agreement is the exclusive means for recovery of attorneys' fees and costs incurred in the Action
28

1 by any attorney, law firm and/or other legal services provider except for the event that either party
2 is required to seek to enforce this settlement agreement or the judgment.

3 **V. Class Representative Enhancement Payment.**

4 In exchange for a general release and in recognition of her effort and work in
5 prosecuting the Action on behalf of Class Members, Defendants agree not to oppose or impede
6 any application or motion for a Class Representative Enhancement Payment in the amount of up to
7 \$7,500.00 for Plaintiff. The Class Representative Enhancement Payment will be paid from the
8 Class Settlement Amount and will be in addition to Plaintiff's Individual Settlement Payment paid
9 pursuant to the Settlement. Plaintiff will be solely and legally responsible to pay any and all
10 applicable taxes on the payment made pursuant to this Section and will indemnify and hold
11 Defendants harmless from any claim or liability for taxes, penalties, or interest arising as a result
12 of the payment.

13 **VI. Claims Administration Costs.**

14 The Claims Administrator will be paid for the reasonable costs of administration of
15 the Settlement and distribution of payments from the Class Settlement Amount, which are
16 currently estimated to be \$20,000.00.

17 The Parties hereby acknowledge that the Claims Administration Costs may
18 increase above the current estimate of \$20,000.00 and that any such additional Claims
19 Administration Costs that are approved by the Parties' counsel and the Court shall be taken out of
20 the Class Settlement Amount.

21 **VII. Labor and Workforce Development Agency Payment/PAGA Settlement Amount.**

22 Subject to Court approval, the Parties agree that \$20,000.00 of the Class Settlement
23 Amount will be designated for satisfaction of PAGA claims (the "PAGA Settlement Amount")
24 and release of the Released Aggrieved Employee Claims. Pursuant to the PAGA, \$15,000.00
25 (75%) of the PAGA Settlement Amount will be paid to the LWDA and \$5,000.00 (25%) of the
26 PAGA Settlement Amount will be paid to Aggrieved Employees.

1 **VIII. Net Settlement Amount.**

2 The Net Settlement Amount will be used to satisfy Individual Settlement Payments
3 to Class Members from the Settlement Class in accordance with the terms of this Settlement.

4 **IX. Individual Settlement Payment Calculations.**

5 Individual Settlement Payments will be calculated and apportioned from the Net
6 Settlement Amount based on the number of workweeks a Class Member worked during the Class
7 Period. Specific calculations of Individual Settlement Payments will be made as follows:

- 8 (a) The Claims Administrator will calculate the total number of weeks worked
9 (weeks in which at least one day was worked) by each Class Member
10 (“Individual Workweeks”) and the total number of weeks worked by all
11 Class Members (“Class Workweeks”) during the Class Period.
- 12 (b) To determine each Class Member’s Individual Settlement Payment, the
13 Claims Administrator will use the following formula: Individual Settlement
14 Payment = (Individual Workweeks ÷ Class Workweeks) × Net Settlement
15 Amount.

16 Non-Participating Class Members will not receive any Individual Settlement
17 Payments. The Administrator will retain amounts equal to their Individual Settlement Payments in
18 the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

19 The Individual Settlement Payment will be reduced by any required deductions for
20 each Class Member as set forth herein, including employee-side tax withholdings or deductions.
21 The Individual Settlement Payments will be allocated as follows: one-third (1/3) to wages, one-
22 third (1/3) to interest, and one-third (1/3) to penalties.

23 The Individual Settlement Payments made to Class Members under this Settlement,
24 and any other payments made pursuant to this Settlement, will not be utilized to calculate any
25 additional benefits under any benefit plans to which any Class Members may be eligible,
26 including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans,
27 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’
28

intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

X. Individual PAGA Payments.

Individual PAGA Payments will be calculated and apportioned from the Aggrieved Employees Amount based on the number of pay periods an Aggrieved Employee worked during the PAGA Period. Specific calculations of Individual PAGA Payments will be made as follows:

- (a) The Claims Administrator will calculate the total number of pay periods worked (pay periods in which at least one day was worked) by each Aggrieved Employee (“Individual Pay Periods”) and the total number of pay periods worked by all Aggrieved Employees (“Total Pay Periods”) during the Class Period.
- (b) To determine each Aggrieved Employees Individual PAGA Payment, the Claims Administrator will use the following formula: Individual PAGA Payment = (Individual Pay Periods ÷ Total Pay Periods) × Aggrieved Employees Amount.

XI. Claims Administration Process.

1. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Claims Administrator will provide the following services:

- a. Establish and maintain a Qualified Settlement Account.
- b. Calculate the Individual Settlement Payment each Class Member is eligible to receive.
- c. Translate the Notice Packet into Spanish by request of Class Members.
- d. Print and mail the Notice Packet.
- e. Establish and maintain a toll-free information telephone support line to assist Class Members who have questions regarding the Notice Packet.
- f. Establish and maintain a website with information to assist Class Members, including the posting of notice of final judgment.

- 1 g. Conduct additional address searches for mailed Notice Packets that are
2 returned as undeliverable.
- 3 h. Process Requests for Exclusion, calculate Class Members' Individual
4 Settlement Payment, field inquiries from Class Members, and administer
5 any Requests for Exclusion. This service will include settlement proceed
6 calculation, printing and issuance of Settlement Payment Checks, and
7 preparation of IRS W-2 and 1099 Tax Forms. Basic accounting for and
8 payment of employee tax withholdings and forwarding all payroll taxes and
9 penalties to the appropriate government authorities will also be included as
10 part of this service.
- 11 i. Issuing to Plaintiff, Class Members, and Plaintiff's Counsel any W-2, 1099,
12 or other tax forms as may be required by law for all amounts paid pursuant
13 to this Settlement.
- 14 j. Provide declarations and/or other information to the Court as requested by
15 the Parties and/or the Court.
- 16 k. Provide weekly status reports to counsel for the Parties.
- 17 2. Within fourteen (14) days of Preliminary Approval, Defendants will
18 provide the Class List to the Claims Administrator.
- 19 3. Within fourteen (14) calendar days after receiving the Class List from
20 Defendants, the Claims Administrator will mail a Notice Packet to all Class Members via regular
21 First-Class U.S. Mail, using the last known mailing addresses identified in the Class List.
- 22 4. Prior to mailing, the Claims Administrator will perform a search based on
23 the National Change of Address Database for information to update and correct any known or
24 identifiable address changes. Within seven (7) days of receiving a returned Notice Packet, the
25 Claims Administrator must re-mail the Notice Packet via regular First-Class U.S. Mail to the
26 forwarding address affixed thereto and the Claims Administrator will indicate the date of such re-
27 mailing on the Notice Packet. If no forwarding address is provided, the Claims Administrator will
28 promptly attempt to determine the correct address using a skip-trace, or other search using the

1 name, address and/or Social Security number of the Class Member involved, and will then
2 perform a single re-mailing. Those Class Members who receive a re-mailed Notice Packet,
3 whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15)
4 calendar days or (b) the Response Deadline to postmark a Request for Exclusion or Notice of
5 Objection to the Settlement.

6 5. All Class Members will be mailed a Notice Packet containing the forms
7 attached as Exhibit 1 as approved by the Court.

8 6. Class Members will have an opportunity to dispute the information
9 provided in their Notice Packets. To the extent Class Members dispute the number of workweeks
10 to which they have been credited or the amount of their Individual Settlement Payment, Class
11 Members may produce evidence to the Claims Administrator showing that such information is
12 inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be presumed
13 determinative. However, if a Class Member produces evidence to the contrary, the Claims
14 Administrator will evaluate the evidence submitted by the Class Member and will make the final
15 decision as to the number of eligible workweeks that should be applied and/or the Individual
16 Settlement Payment to which the Class Member may be entitled. The workweek dispute must be
17 returned by mail or fax to the Claims Administrator at the specified address or facsimile number
18 and postmarked or faxed on or before the Response Deadline. The date of the postmark or fax
19 receipt confirmation will be the exclusive means to determine whether a workweek dispute has
20 been timely submitted. All such disputes are to be resolved not later than fourteen (14) calendar
21 days after the Response Deadline.

22 7. Defective Submissions. If a Class Member's Request for Exclusion is
23 defective as to the requirements listed herein, that Class Member will be given an opportunity to
24 cure the defect(s). The Claims Administrator will mail the Class Member a cure letter within three
25 (3) business days of receiving the defective submission to advise the Class Member that his or her
26 submission is defective and that the defect must be cured to render the Request for Exclusion
27 valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15)
28

1 calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised
2 Request for Exclusion.

3 8. Request for Exclusion Procedures. Any Class Member wishing to opt-out
4 from the Settlement Agreement must sign and postmark, email or fax a written Request for
5 Exclusion to the Claims Administrator within the Response Deadline. The date of the postmark
6 on the return mailing envelope or the fax receipt confirmation will be the exclusive means to
7 determine whether a Request for Exclusion has been timely submitted. All Requests for Exclusion
8 will be submitted to the Claims Administrator, who will certify jointly to Class Counsel and
9 Defendants' Counsel the Requests for Exclusion that were timely submitted. The Administrator
10 may not reject a Request for Exclusion as invalid because it fails to contain all the information
11 specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if
12 the Administrator can reasonably ascertain the identity of the person as a Class Member and the
13 Class Member's desire to be excluded. The Administrator's determination shall be final and not
14 appealable or otherwise susceptible to challenge. If the Administrator has reason to question the
15 authenticity of a Request for Exclusion, the Administrator may demand additional proof of the
16 Class Member's identity. The Administrator's determination of authenticity shall be final and not
17 appealable or otherwise susceptible to challenge. Any Class Member who does not timely seek
18 exclusion will be bound by the terms of this Settlement Agreement. Any Class Member who
19 timely submits a valid Request for Exclusion will not receive payment from the Settlement, and
20 will not be bound by the terms of the Settlement Agreement or Judgment (with the exception of
21 the PAGA Released Claims if they are an Aggrieved Employee). Class Members eligible for a
22 portion of the PAGA Settlement will receive their share of the employee portion of the PAGA
23 Settlement Amount and will be deemed to have released any claims arising out of PAGA,
24 regardless of whether they submit a Request for Exclusion.

25 **XII. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

26 1. Defendants' Option to Nullify the Settlement Agreement. If five percent
27 (5%) or more of the Class Members opt out of the Settlement (or are otherwise excluded),
28 Defendants, in their sole discretion, shall have the option of nullifying the Settlement Agreement.

1 In such a case, the Parties and any funds to be awarded under this Settlement Agreement shall be
2 returned to their respective statuses as of the date and time immediately prior to the execution of
3 this Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had
4 not been executed, except that any fees already incurred by the Claims Administrator shall be paid
5 by Defendants.

6 2. Nullification of the Settlement Agreement. In the event: (i) the Court does
7 not enter the Preliminary Approval Order and approve the Released Claims specified herein;
8 (ii) the Court does not finally approve the Settlement as provided herein; (iii) Defendants exercise
9 their option to nullify the Settlement Agreement based on an excessive number of opt-outs, as
10 described in the above Section; or (iv) the Settlement does not become final for any other reason
11 (*e.g.*, an objection by the LWDA), this Settlement Agreement shall be null and void. A reduction
12 of the Attorneys' Fees and Costs and/or any Class Representative Enhancement Payment(s) shall
13 not be grounds for nullification of this Settlement. If the Settlement is nullified, any order or
14 judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void
15 from the beginning, and the Stipulations and Recitals contained herein shall be of no force or
16 effect, and shall not be treated as an admission by the Parties or their counsel. In such a case, the
17 Parties and any funds to be awarded under this Settlement Agreement shall be returned to their
18 respective statuses as of the date and time immediately prior to the execution of this Settlement
19 Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not
20 been executed, except that any fees already incurred by the Claims Administrator shall be paid
21 equally by both Parties. The Parties agree that they will cooperate and take all steps necessary in
22 order to obtain preliminary and/or final approval in the event that the Court raises issues or
23 questions about this Settlement or anything pertaining to this Settlement (including, but not
24 limited to, the motion for preliminary approval and motion for final approval).

25 3. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any
26 Class Member who does not affirmatively opt out of the Settlement Agreement by submitting a
27 timely and valid Request for Exclusion will be bound by all its terms, including those pertaining to
28 the Released Claims.

1 **XIII. Certification Reports Regarding Individual Settlement Payment Calculations.**

2 1. The Claims Administrator will provide Defendants' counsel and Class
3 Counsel a weekly report which certifies: (a) the number of Class Members who have submitted
4 valid Requests for Exclusion; (b) any objections submitted to the Settlement along with a copy of
5 any such objection; and (c) whether any Class Member has submitted a challenge to any
6 information contained in his/her Notice Packet. Additionally, the Claims Administrator will
7 provide to counsel for both Parties any updated reports regarding the administration of the
8 Settlement Agreement as needed or requested.

9 2. Uncashed Settlement Checks. Any checks issued by the Claims
10 Administrator to Class Members will be negotiable for one-hundred eighty (180) calendar days.
11 After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become
12 null and void, and any monies remaining in the distribution account shall be distributed to the
13 Controller of the State of California to be held pursuant to the Unclaimed Property Law,
14 California Civil Code § 1500 *et seq.*, for the benefit of those Settlement Class members or
15 Aggrieved Employees who did not cash their checks until such time that they claim their property.
16 The Settling Parties agree that this disposition results in no "unpaid residue" under California
17 Civil Procedure Code § 384, as the entire Settlement Payment will be paid out to Settlement Class
18 members, whether or not they all cash their Settlement Checks. Therefore, Defendants will not be
19 required to pay any interest on said amount.

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

23 **XIV. Tax Treatment of Individual Settlement Payments.**

24 The Individual PAGA Payments will be allocated as 100% penalties and reported on an
25 IRS-Form 1099. All Individual Settlement Payments will be allocated as follows: one-third (1/3)
26 of each Individual Settlement Payment will be allocated as wages and two-thirds (2/3) will be
27 allocated as non-wages. The portion allocated to wages will be reported on an IRS Form W-2 and
28 the portion allocated to non-wages will be reported on an IRS Form-1099 by the Claims

1 Administrator. The Individual Settlement Payments will be reduced by any required legal
2 deductions for each Class Member. All standard employee payroll deductions will be made for
3 state and federal withholding taxes, including any other applicable payroll deductions owed by the
4 Class Members as a result of the wage component, resulting in a net wage component. The
5 Claims Administrator will issue a check and W-2 Form to each Class Member for the wage
6 component. The Claims Administrator will issue a second check and IRS Form-1099 for the
7 remaining non-wages component. No withholding shall be made on the non-wages portion of the
8 Individual Settlement Payment. The Claims Administrator shall be responsible for issuing the
9 payments and calculating and withholding all required state and federal taxes. The Claims
10 Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement
11 Payments under the terms of this Settlement Agreement. Any disputes not resolved by the Claims
12 Administrator concerning the administration of the Settlement will be resolved by the Court, under
13 the laws of the State of California. Prior to any such involvement of the Court, counsel for the
14 Parties will confer in good faith to resolve the dispute without the necessity of involving the Court.

15 **XV. Administration of Taxes by the Claims Administrator.**

16 1. Tax Liability. Defendants make no representation as to the tax treatment or
17 legal effect of the payments called for hereunder, and Plaintiff and Class Members are not relying
18 on any statement, representation, or calculation by Defendants or by the Claims Administrator in
19 this regard. Plaintiff and Class Members understand and agree they will be solely responsible for
20 the payment of their share of any taxes and penalties assessed on the payments described herein.

21 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT
22 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”
23 AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE
24 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES
25 THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
26 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
27 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
28 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE

1 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
2 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
3 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
4 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
5 ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT
6 ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
7 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
8 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
9 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
10 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
11 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
12 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
13 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
14 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
15 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
16 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
17 SETTLEMENT AGREEMENT.

18 **XVI. Releases.**

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

23 2. It is the desire of Plaintiff, Class Members (except those who exclude
24 themselves from the Settlement), and Defendants to fully, finally, and forever settle, compromise,
25 and discharge the Released Class Claims and Released Aggrieved Employee Claims. Upon fully
26 funding the Class Settlement Amount, and except as to such rights or claims as may be created by
27 this Settlement Agreement, the Class Members shall fully release and discharge the Released
28 Parties from any and all Released Class Claims for the entire Class Period and the Aggrieved

1 Employees shall fully release and discharge the Released Parties from any and all Released
2 Aggrieved Employee Claims for the entire PAGA Period. This release shall be binding on all
3 Class Members who have not timely submitted a valid and complete Request for Exclusion,
4 including each of their respective attorneys, agents, executors, representatives, guardians ad litem,
5 heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have
6 no further or other liability or obligation to any Class Member with respect to the Released Class
7 Claims, except as expressly provided herein.

8 **XVII. Preliminary Approval Hearing.**

9 1. Plaintiff will obtain a hearing before the Court to request Preliminary
10 Approval of the Settlement Agreement and the entry of a Preliminary Approval Order for: (a)
11 conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary
12 Approval of the proposed Settlement Agreement, and (c) setting a date for a Final
13 Approval/Settlement Fairness Hearing.

14 2. The Preliminary Approval Order will provide for the Notice Packet to be
15 sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
16 Hearing, Plaintiff will submit this Settlement Agreement and will include the proposed Notice
17 Packet.

18 3. Class Counsel will be responsible for drafting all documents necessary to
19 obtain Preliminary Approval, subject to review by Defendants' counsel. Any failure by the Court
20 to fully and completely approve the Settlement Agreement which has the effect of preventing the
21 full and complete approval of the Settlement Agreement as written and agreed to by the Parties
22 will result in this Settlement Agreement, and all obligations under this Settlement Agreement,
23 being nullified and voided.

24 **XVIII. Final Settlement Approval Hearing and Entry of Judgment.**

25 1. Upon expiration of the Response Deadline, and with the Court's
26 permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the
27 Final Approval of the Settlement Agreement along with the amounts properly payable for: (a)
28 Individual Settlement Payments and Individual PAGA Payments; (b) the LWDA payment; (c) the

1 Attorneys' Fees and Costs; (d) the Class Representative Enhancement Payment; and (e) all Claims
2 Administration Costs.

3 2. Depending on the Court's availability, the Parties will request that the Final
4 Approval Hearing will be held no later than forty-five (45) calendar days after the Response
5 Deadline. A violation of this provision shall not serve as grounds for nullification of this
6 Agreement.

7 3. Class Counsel will be responsible for drafting all documents necessary to
8 obtain Final Approval, subject to review by Defendants' counsel. Class Counsel will also be
9 responsible for drafting the Attorneys' Fees and Costs application to be heard at the Final
10 Approval/Settlement Fairness Hearing. Any failure by the Court to fully and completely approve
11 the Settlement Agreement will result in this Settlement Agreement entered into by the Parties, and
12 all obligations under this Settlement Agreement, being nullified and voided. Upon such failure,
13 any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be
14 treated as void from the beginning, and the Stipulations and Recitals contained herein shall be of
15 no force or effect and shall not be treated as an admission by the Parties or their counsel. In such a
16 case, the Parties and any funds to be awarded under this Settlement Agreement shall be returned to
17 their respective statuses as of the date and time immediately prior to the execution of this
18 Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement
19 had not been executed, except that any fees already incurred by the Claims Administrator shall be
20 paid equally by both Parties.

21 **XIX. Judgment and Continued Jurisdiction.**

22 The Court shall retain jurisdiction with respect to the interpretation,
23 implementation, and enforcement of the terms of this Settlement Agreement and all orders and
24 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
25 jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement
26 embodied in this Settlement Agreement and all orders and judgments entered in connection
27 therewith.

28 **XX. Escalator Clause**

1 This settlement is based on Defendants' representation that there are approximately
2 750 Class Members (in total) and approximately 60,000 employee workweeks (in total)
3 encompassed in the Class Period as of April 1, 2022. If the actual number of employee workweeks
4 encompassed within the Class Period as of April 1, 2022 exceeds 60,000 by more than 12.5%, then,
5 Plaintiff has the option to nullify this Agreement. Plaintiff shall provide ten (10) business days' notice
6 of such intent to nullify prior to taking any action with the court. During this 10 day nullification
7 notice period, Defendants at their exclusive discretion may agree to increase the Gross Settlement
8 Amount proportionately for any excess increase in the total number of Settlement Class members.
9 For example, if the total number of Settlement Class members increases by 13%, the Gross
10 Settlement Amount will increase by .5% (actual increase minus the 12.5% tolerated increase). In the
11 alternative, Defendants shall have the exclusive option to modify the applicable Class Period to a
12 date prior to August 19, 2022 to avoid incurring the pro rata increase.

13 **XXI. Other Provisions.**

14 1. Exhibits Incorporated by Reference. The terms of this Settlement include
15 the terms set forth in any attached Exhibits, which are incorporated by this reference as though
16 fully set forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

17 2. Entire Agreement. This Settlement Agreement any attached Exhibits and
18 Plaintiff's individual settlement agreement constitute the entirety of the Parties' settlement terms.
19 No other prior or contemporaneous written or oral agreements may be deemed binding on the
20 Parties.

21 3. Amendment or Modification. This Settlement Agreement may be amended
22 or modified only by a written instrument signed by counsel for all Parties or their successors-in-
23 interest and approved by the Court.

24 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties
25 warrant and represent they are expressly authorized by the Parties whom they represent to
26 negotiate this Settlement Agreement and to take all appropriate action required or permitted to be
27 taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute
28 any other documents required to effectuate the terms of this Settlement Agreement. The Parties

1 and their counsel will cooperate with each other and use their best efforts to effect the
2 implementation of the Settlement. If the Parties are unable to reach agreement on the form or
3 content of any document needed to implement the Settlement, or on any supplemental provisions
4 that may become necessary to effectuate the terms of this Settlement, the Parties may seek the
5 assistance of Steve Rottman, Esq. (mediator) to resolve such disagreement.

6 5. Binding on Successors and Assigns. This Settlement Agreement will be
7 binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as
8 previously defined.

9 6. California Law Governs. All terms of this Settlement Agreement and
10 Exhibits hereto will be governed by and interpreted according to the laws of the State of
11 California.

12 7. Execution and Counterparts. This Settlement Agreement is subject only to
13 the execution of all Parties. However, the Settlement Agreement may be executed in one or more
14 counterparts. All executed counterparts and each of them, including electronic signatures (*e.g.*,
15 DocuSign), facsimile and scanned copies of the signature page, will be deemed to be one and the
16 same instrument. The Parties expressly agree to the use of authorized electronic signature (*e.g.*,
17 DocuSign).

18 8. Acknowledgement that the Settlement is Fair and Reasonable. The Parties
19 believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and
20 have arrived at this Settlement after arm's-length negotiations and in the context of adversarial
21 litigation, taking into account all relevant factors, present and potential. The Parties further
22 acknowledge that they are each represented by competent counsel and that they have had an
23 opportunity to consult with their counsel regarding the fairness and reasonableness of this
24 Settlement.

25 9. Invalidity of Any Provision. Before declaring any provision of this
26 Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the
27 fullest extent possible consistent with applicable precedents so as to define all provisions of this
28 Settlement Agreement valid and enforceable.

1 10. Class Action Certification for Settlement Purposes Only. The Parties agree
2 to stipulate to class certification only for purposes of the Settlement. If, for any reason, the
3 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
4 that certification for purposes of the Settlement is not an admission that class action certification is
5 proper under the standards applied to contested certification motions and that this Settlement
6 Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a
7 class action should be certified or (b) Defendants are liable to Plaintiff or any Class Member, other
8 than according to the Settlement's terms.

9 11. Non-Admission of Liability. The Parties enter into this Settlement
10 Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense,
11 and risk of continued litigation. In entering into this Settlement Agreement, Defendants do not
12 admit, and specifically deny, they have violated any federal, state, or local law; violated any
13 regulations or guidelines promulgated pursuant to any statute or any other applicable laws,
14 regulations or legal requirements; breached any contract; violated or breached any duty; engaged
15 in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to
16 their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of
17 the negotiations connected with it, shall be construed as an admission or concession by Defendants
18 of any such violations or failures to comply with any applicable law. Except as necessary in a
19 proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its
20 terms and provisions shall not be offered or received as evidence in any action or proceeding to
21 establish any liability or admission on the part of Defendants or to establish the existence of any
22 condition constituting a violation of, or a non-compliance with, federal, state, local or other
23 applicable law.

24 12. Captions. The captions and section numbers in this Settlement Agreement
25 are inserted for the reader's convenience, and in no way define, limit, construe or describe the
26 scope or intent of the provisions of this Settlement Agreement.

27 13. Waiver. No waiver of any condition or covenant contained in this
28 Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be

1 considered to imply or constitute a further waiver by such party of the same or any other
2 condition, covenant, right or remedy.

3 14. Enforcement Action. If one or more of the Parties institutes any legal
4 action or other proceeding against any other Party or Parties to enforce the provisions of this
5 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or
6 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees
7 and costs, including expert witness fees incurred in connection with any enforcement Action.

8 15. Mutual Preparation. The Parties have had a full opportunity to negotiate the
9 terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will
10 not be construed more strictly against one Party than another merely by virtue of the fact that it
11 may have been prepared by counsel for one of the Parties, it being recognized that, because of the
12 arm's-length negotiations between the Parties, all Parties have contributed to the preparation of
13 this Settlement Agreement.

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

19 17. All Terms Subject to Final Court Approval. All amounts and procedures
20 described in this Settlement Agreement herein will be subject to final Court approval.

21 18. Cooperation and Execution of Necessary Documents. All Parties will
22 cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate
23 the terms of this Settlement Agreement.

24 19. Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall issue any
25 press release or announcement of any kind related in any way to the Settlement. Plaintiff and
26 Plaintiff's Counsel agree that, prior to Preliminary Approval of the Settlement, they will keep the
27 terms of this Settlement confidential except for purposes of communicating with Plaintiff only.
28 Plaintiff shall be informed that the Settlement is confidential and shall be advised to keep the

1 Settlement confidential. From and after Preliminary Approval of the Settlement, the Class
2 Members (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required
3 under the terms of the Settlement; or (3) as required under counsel's duties and responsibilities as
4 Class Counsel, comment regarding the specific terms of the Settlement. In all other cases,
5 Plaintiff and Class Counsel agree to limit their statements regarding the terms of the Settlement,
6 whether oral, written or electronic (including the world wide web), to say the Class Action has
7 been resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms.
8 Nothing in this Section is intended to interfere with Class Counsel's duties and obligations to
9 faithfully discharge their duties as Class Counsel, including but not limited to, communicating
10 with Class Members regarding the Settlement. This Settlement shall not be advertised or
11 mentioned on any source, including Plaintiff's Counsels' personal or firm website(s).

12 The parties stipulate and agree, pursuant to California Code of Civil Procedure
13 section 583.330(a), to extend the time within which this action must be brought to trial pursuant to
14 Code of Civil Procedure sections 583.310 through 583.360, by that period of time from
15 Preliminary Approval to the date of Final Approval or upon written notice from either party of an
16 intent to resume litigation, and that said period of time shall not be included in the computation of
17 the five-year period specified in Code of Civil Procedure section 583.310.

18 20. Binding Agreement. The Parties warrant that they understand and have full
19 authority to enter into this Settlement, intend that this Settlement Agreement will be fully
20 enforceable and binding on all Parties, and agree that it will be admissible and subject to
21 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
22 provisions that otherwise might apply under federal or state law. Plaintiff, and not her respective
23 representative(s), must personally execute this Settlement Agreement.

24 *The Settlement Agreement consists of 32 pages with signatures appearing below.*
25
26
27
28

5/2/2023

Dated: _____

PLAINTIFF CARRIE BALDWIN

DocuSigned by:

Carrie Baldwin

Plaintiff Carrie Baldwin

PATAGONIA, INC.

Dated: _____

Please Print Name of Authorized Signatory

GREAT PACIFIC IRON WORKS

Dated: _____

Please Print Name of Authorized Signatory

APPROVED AS TO FORM

LABOR LAW PC

Dated: _____

Attorneys for Plaintiff Carrie Baldwin

DAVID YEREMIAN & ASSOCIATES, INC.

Dated: May 3, 2023

Attorneys for Plaintiff Carrie Baldwin

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

Dated: _____

Jason W. Kearnaghan
Attorneys for Defendants Patagonia, Inc. and
Great Pacific Iron Works

1 Dated: _____

PLAINTIFF CARRIE BALDWIN

2
3 _____
Plaintiff Carrie Baldwin

4 **PATAGONIA, INC.**

5
6 Dated: 5/3/2023 _____

DocuSigned by:
Amanda Happle
A387ADC68CAC4CE...

7 Amanda Happle

8 Please Print Name of Authorized Signatory

9 **GREAT PACIFIC IRON WORKS**

10 Dated: 5/3/2023 _____

DocuSigned by:
Amanda Happle
A387ADC68CAC4CE...

12 Amanda Happle

13 Please Print Name of Authorized Signatory

14 **APPROVED AS TO FORM**

15 **LABOR LAW PC**

17 Dated: _____

18 _____
Attorneys for Plaintiff Carrie Baldwin

19 **DAVID YEREMIAN & ASSOCIATES, INC.**

20
21 Dated: _____

22 _____
Attorneys for Plaintiff Carrie Baldwin

23 **SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

24 Dated: 5/3/2023 _____

Jason W. Kearnaghan

25 Jason W. Kearnaghan
26 Attorneys for Defendants Patagonia, Inc. and
27 Great Pacific Iron Works
28