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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE STATE OF CALIFORNIA
19

20 DENISE RIVAS, on behalf of herself and
on behalf of all other aggrieved employees,

21 Plaintiff,

22 vs.
23

24 8X8, INC., a Delaware corporation; and
DOES 1 through 50, inclusive

25 Defendants.
26
27
28

Case No. 20cv374192

**REVISED JOINT STIPULATION OF
CLASS ACTION AND PAGA ACTION
SETTLEMENT AND RELEASE**

Judge: Hon. Sunil R. Kulkarni
Dept: 1

Complaint Filed: Dec. 1, 2020

1 IT IS HEREBY STIPULATED, by and between the parties in the two actions entitled:
2 *Denise Rivas, on behalf of herself and on behalf of all other aggrieved employees v. 8X8, Inc., a*
3 *Delaware corporation, and DOES 1 through 50, inclusive, United States District court, Northern*
4 *District of California, Case No. 5:20-cv-07607-LHK (“Class Action”), and Denise Rivas, on*
5 *behalf of herself and on behalf of all other aggrieved employees, v. 8X8, Inc., a Delaware*
6 *corporation; and Does 1 through 50, inclusive, Santa Clara County Superior Court, Case No.*
7 *20CV374192 (“PAGA Action”), namely, DENISE RIVAS, on behalf of herself and on behalf of*
8 *all other putative class members and aggrieved employees (hereinafter “Rivas”), on the one hand,*
9 *and Defendant 8X8, INC. (hereinafter “Defendant”), on the other hand, and subject to the*
10 *approval of the Court,¹ that the Actions are hereby compromised and settled pursuant to the terms*
11 *and conditions set forth in this Joint Stipulation of Class Action and PAGA Action Settlement*
12 *and Release (“Agreement,” “Settlement,” “Settlement Agreement,” or “Stipulation of*
13 *Settlement”)* and that the Court shall make and enter judgment, subject to the continuing
14 jurisdiction of the Court as set forth below, and subject to the definitions, recitals, and terms set
15 forth herein which by this reference become an integral part of this Stipulation of Settlement. The
16 Parties agree that the Settlement Agreement entered into on or about November of 2021, is void and
17 superseded by this Settlement Agreement.

18 **DEFINITIONS**

19 1. “Actions” means the putative class and representative actions entitled *Denise*
20 *Rivas, on behalf of herself and others similarly situated, v. 8X8, Inc., a Delaware corporation,*
21 *and DOES 1 through 50, inclusive, United States District court, Northern District of California,*
22 *Case No. 5:20-cv-07607-LHK (“Class Action”), and Denise Rivas, on behalf of herself and on*
23 *behalf of all other aggrieved employees, v. 8X8, Inc., a Delaware corporation; and Does 1*
24 *through 50, inclusive, Santa Clara County Superior Court, Case No. 20CV374192 (“PAGA*
25 *Action”).*

26
27 ¹ The parties agree, as outlined in Section 50 below, that they shall seek approval of the PAGA
28 and Class claims in state court.

2. “Operative Complaints” mean the Complaints filed by Plaintiff on September 25, 2020, in the Class Action and the December 1, 2020 Complaint filed in the PAGA Action.

3. “Class Counsel” means David Yeremian, Esq. and Roman Shkodnik, Esq. of David Yeremian & Associates, Inc. and Emil Davtyan of the Davtyan Law Firm, Inc.

4. “Class Counsel Award” means the Court-approved attorneys’ fees for Class Counsel’s litigation and resolution of the Action (not to exceed one-third [33.33%] of the Maximum Settlement Amount, or ~~Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three~~ ^{Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three} ~~Three Hundred Thirty-Three Thousand~~ ^{33.33% TWG} Dollars and 33 cents (\$333,333.33), and the court approved costs incurred by Class Counsel in connection with this Action (not to exceed Thirty Thousand Dollars [\$30,000]).

5. “Class Information” or “Class Lists” means information regarding Class Members that Defendant shall in good faith compile from its records and shall be authorized by the Court to transmit in a secured manner to the Settlement Administrator. Class Information shall be transmitted in Microsoft Excel format and shall include for each Class Member’s: (i) full name; (ii) last known address; (iii) Social Security number; and (iv) the number of workweeks worked for Defendant in California as non-exempt hourly employees during the Class Period.

6. “Class Members” or “Settlement Class” means all current and former non-exempt hourly California employees of Defendant from September 25, 2016, through the date of preliminary approval of the settlement. It shall be an opt-out class.

7. “Class Period” means the period from September 25, 2016, through the date of preliminary approval of the Settlement.

8. “Class Representative Service Award” means the Court-approved amounts to be paid to Plaintiff Denise Rivas in the amount up to Ten Thousand Dollars (\$10,000) in addition to Plaintiff’s Individual Settlement Award, in recognition of Plaintiff’s efforts and risks in prosecuting the Action.

9. “Defendant” means 8x8, Inc.

10. “Defense Counsel” means Jen Cornell, Esq. and Teresa W. Ghali, Esq., both of GBG LLP.

11. “Effective Date” means the date when all of the following events have occurred:

(i) the Stipulation of Settlement has been executed by all Parties, Class Counsel and Defense Counsel; (ii) the parties have stipulated to remand the Class Action to state court; (iii) the state court has assumed jurisdiction of the Class Action and, per the parties’ stipulation or joint motion, has consolidated the Class and PAGA Actions into one action; (iv) the Court, presiding over both the Class Action and PAGA Actions, has given preliminary approval to the Stipulation of Settlement; (v) the Notice of Class Action Settlement has been given to the putative members of the Settlement Class, providing them with an opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (vi) the Court has held a Final Approval Hearing and entered a Final Order and Judgment certifying the Settlement Class, and approving the Stipulation of Settlement, and no objections or motions to intervene have been filed, or they were withdrawn before the Court entered a Final Order and Judgment; or, if an objection or motion to intervene have been filed and were not subsequently withdrawn, the next business day after the period for filing any appeal, writ or other appellate proceeding opposing the Court’s Final Order and Judgment has elapsed without any appeal, writ or other appellate proceeding having been filed; or (vii) if a Class Member objects, intervenes or files a motion to vacate the judgment approving the Settlement Agreement, and if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final judicial approval of the Settlement Agreement

12. “Employer’s Share of Payroll Taxes” means Defendant’s portion of payroll taxes, including, but not limited to FICA and FUTA, on the portion of the Individual Settlement Awards that constitutes wages.

13. “Final Approval Hearing” means the hearing to be conducted by the Court after the filing by Plaintiff of an appropriate motion and following appropriate notice to Class Members giving Class Members an opportunity to request exclusion from the Settlement Class and Settlement or to object to the Settlement, at which time Plaintiff shall request that the Court finally approve the Settlement, enter the Final Order and Judgment, and take other appropriate

1 action.

2 14. "Final Order and Judgment" means the order and judgment to be entered by the
3 Court upon granting final approval of the Settlement and this Stipulation of Settlement as binding
4 upon the Parties and Participating Class Members. A proposed Final Order and Judgment shall
5 be mutually agreed upon by the Parties and submitted to the Court concurrently with Plaintiff's
6 Motion for Final Approval of the Settlement.

7 15. "Final Report" means the report to be prepared by the Settlement Administrator
8 (after the expiration of the 180-day period in which Participating Class Members must
9 cash/deposit their Individual Settlement Award payment checks) regarding the distribution of the
10 Maximum Settlement Amount, including the total amount that was cashed/deposited by
11 Participating Class Members and the total amount of any unpaid residue or unclaimed or
12 abandoned funds pursuant to California Code of Civil Procedure section 384.

13 16. "Individual PAGA Payment" means the amount payable from the PAGA Payment
14 to each Class Member.

15 17. "Individual Settlement Award" means the amount payable from the Net Settlement
16 Amount to each Participating Class Member.

17 18. "Maximum Settlement Amount" means the maximum amount Defendant shall
18 have to pay in connection with this Settlement, by way of a common fund, which shall be
19 inclusive of all Individual Settlement Awards to Participating Class Members, the Class Counsel
20 Award, the Class Representative Service Award, PAGA Payment, and Settlement Administration
21 Costs. Subject to Court approval and the terms of this Stipulation of Settlement, the Maximum
22 Settlement Amount Defendant shall be required to pay is One Million Dollars (\$1,000,000.00).
23 The Maximum Settlement Amount is exclusive of Employer's Share of Payroll Taxes. Defendant
24 has represented that the total number of workweeks from the start of the class period through July
25 30, 2021 is 52,050 workweeks. If the total number of workweeks increases by more than 10% as
26 of the date of Preliminary Approval, then there shall be a corresponding pro-rata increase in the
27 Net Settlement Amount, as defined in paragraph 19 below.

1 19. “Net Settlement Amount” means the Maximum Settlement Amount, less the Class
2 Counsel Award, Class Representative Service Award, PAGA Payment to the California Labor
3 Workforce Development Agency (“LWDA”), and Settlement Administration Costs.

4 20. “Notice of Objection” means a Class Member’s valid and timely submission of a
5 written objection to the Settlement to the Settlement Administrator within the Response Deadline.
6 An objection should include: (a) the objector’s full name, signature, address, telephone number,
7 and the last four digits of his/her Social Security number, (b) a written statement of all grounds
8 for the objection accompanied by any legal support for such objection, and (c) copies of any
9 papers, briefs, or other documents upon which the objection is based. Objecting Class Members
10 may appear at the Final Approval Hearing either in person, or through counsel retained at Class
11 Member’s own expense, to have their objection heard, whether or not they had submitted a prior
12 written objection as specified in this section. The Court will rule on any objections to the
13 settlement at the Final Approval Hearing. An objection may be withdrawn at any time. The
14 Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel
15 via email within three (3) calendar days of receipt, and the Settlement Administrator shall attach
16 any objections to its declaration of due diligence, which is to be filed with the Court prior to the
17 Final Approval Hearing. Any Participating Class Member who files an objection remains eligible
18 to receive monetary compensation from the Settlement. At no time shall any of the Parties, Class
19 Counsel, or Defense Counsel seek to solicit or otherwise encourage or discourage Class Members
20 from submitting a Notice of Objection or filing an appeal from the Final Order and Judgment.

21 21. “PAGA Notice” means the September 16, 2020 letter that Class Counsel sent to
22 the LWDA pursuant to Labor Code §2699.3(a)/(c) seeking to exhaust Plaintiff’s administrative
23 remedies under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab.
24 Code §§2698, et seq., and specifically alleging that Defendant failed to pay all wages due to
25 illegal rounding, failed to pay overtime and sick pay at the correct regular rate of pay by failing to
26 incorporate commissions, non-discretionary incentive pay, or any other appropriate amounts into
27 the regular rate of pay; failed to provide meal periods, failed to authorize and permit rest periods,

1 derivatively failed to provide accurate itemized wage statements in violation of the Labor Code
2 and the applicable Industrial Wage Order, failed to timely pay wages, and owes statutory and/or
3 civil penalties pursuant to the Labor Code.

4 22. "PAGA Payment" means the amount of Fifty Thousand Dollars (\$50,000), subject
5 to Court approval, to be paid from the Maximum Settlement Amount for satisfaction of Plaintiff's
6 and Class Members' claims under PAGA. Pursuant to the PAGA, seventy five percent (75%) or
7 Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) of this sum will be paid to the LWDA
8 and Twelve Thousand Five Hundred Dollars (\$12,500.00) will be distributed as the Individual
9 PAGA Payments to Class Members.

10 23. "PAGA Release" or "PAGA Released Claims" means the release by all Class
11 Members for all claims for PAGA that arise out of or relate to California Labor Code sections
12 201-204, 210, 221, 226, 226.7, 245 *et seq.*, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12,
13 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699 *et seq.*, and the applicable wage orders at
14 California Code of Regulations, Title 8, section 11000, *et seq.*, as pled in the PAGA Notice and
15 Complaint in the PAGA Action, from September 16, 2019, through the date of preliminary
16 approval of this Agreement. In light of the binding nature of a PAGA judgment on non-party
17 employees pursuant to *Arias v. Superior Ct. (Dairy)*, 46 Cal. 4th 969 (2009), Class Members
18 employed by Defendant on or after September 16, 2019, who exclude themselves from this
19 Settlement shall still receive an Individual PAGA Payment directly from the Settlement
20 Administrator for the amount of each such individual's estimated share of the PAGA Payment as
21 calculated by the Settlement Administrator.

22 24. "Participating Class Members" means Plaintiff and all other Class Members who
23 do not submit a valid and timely Request for Exclusion.

24 25. "Participating PAGA Members" means all Class Members who submit a valid and
25 timely Request for Exclusion but are nevertheless bound by the PAGA Release.

26 26. "Parties" means Plaintiff and Defendant.

27 27. "Plaintiff" means Plaintiff Denise Rivas.

1 28. “Preliminary Approval Order” means the order to be issued by the Court
2 approving and authorizing the mailing of the Settlement Notice by the Settlement Administrator,
3 setting the date of the Final Approval Hearing and granting preliminary approval of the
4 Settlement set forth in this Stipulation of Settlement, among other things. A proposed Preliminary
5 Approval Order shall be mutually agreed upon by the Parties and submitted to the Court
6 concurrently with Plaintiff’s Motion for Preliminary Approval of the Settlement.

7 29. “Released Claims” includes any and all claims, rights, demands, liabilities, and
8 causes of action of every nature and description arising from September 25, 2016, through the
9 date on which the Court grants preliminary approval of the Settlement, including statutory,
10 contractual, or common law claims, for wages, damages, penalties, liquidated damages, punitive
11 damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, that arise out of
12 or are reasonably related to the factual allegations that were alleged in Plaintiff’s Complaints
13 herein, under California Labor Code sections 201-204, 210, 221, 226, 226.7, 245 *et seq.*, 246,
14 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and
15 2699 *et seq.*, Business and Professions Code §§17200-17208, and the applicable wage orders at
16 California Code of Regulations, Title 8, section 11000, *et seq.*, including (a) any and all claims for
17 failure to pay any type of wages, including overtime wages, minimum wages, and/or regular pay,
18 due to Defendant’s rounding policy, any alleged policy or practice of off-the-clock work or
19 alleged demand or pressure to work through breaks or before or after clocking in, any alleged
20 unlawful deduction from pay, and any alleged failure to incorporate sick time, commissions,
21 incentive pay, or nondiscretionary bonuses in regular rate of pay for purposes of calculating
22 overtime; (b) any and all claims for failure to provide meal breaks and/or premiums in lieu
23 thereof; (c) any and all claims for failure to authorize and permit rest periods and/or pay
24 premiums in lieu thereof; (d) any and all claims for failure to furnish accurate itemized wage
25 statements, both derivative and claims that employee’s wage statements failed to include total
26 hours worked, hourly rates in effect during the pay period, and corresponding number of hours
27 worked at each rate, in violation of Labor Code §§ 226(a)2), (9); (e) any and all claims for failure

1 to maintain wage and time records; (f) any and all claims for failure to provide wages when due
2 upon separation of employment; (g) any and all claims for violation of California Business and
3 Professions Code §§ 17200 *et seq.* related only to the above alleged claims; (h) any claims for
4 violation under the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681 *et seq.*; (i) any and all
5 claims for violation of the Private Attorneys General Act of 2004, Labor Code §§2698 *et seq.* as
6 alleged in the PAGA Complaint.

7 30. “Released Parties” means Defendant, and any of its former and present parents,
8 subsidiaries, divisions, and affiliated companies, including 8x8, and its respective officers,
9 directors, employees, partners, shareholders, agents, successors, assigns, and legal
10 representatives.

11 31. “Released Claims Period” means from September 25, 2016, through the date the
12 Court issues its Preliminary Approval Order.

13 32. “Request for Exclusion” means a written statement submitted by a Class Member
14 indicating a request to be excluded from the Settlement. The Request for Exclusion must be in
15 writing and should: (i) be signed by the Class Member; (ii) contain the name of the Class Member
16 requesting exclusion; (iii) clearly state that the Class Member does not wish to be included in the
17 Settlement; (iv) be returned by fax or mail to the Settlement Administrator at the specific address
18 and/or facsimile number; and (v) be postmarked or faxed on or before the Response Deadline.
19 The date of the fax or postmark on the return mailing envelope will be the exclusive means to
20 determine whether a Request for Exclusion has been timely submitted. A Class Member who
21 does not request exclusion from the Settlement will be deemed a “Participating Class Member”
22 and will be bound by all terms of the Settlement, if the Settlement is granted final approval by the
23 Court. Any Class Member who validly requests to be excluded from the Settlement will no
24 longer be a member of the Settlement Class and will not have any right to object, appeal, or
25 comment on the Settlement, but will remain as Participating PAGA Member(s), and will receive
26 an Individual PAGA Payment for the PAGA Released Claims. No later than ten (10) calendar
27 days after the Response Deadline, the Settlement Administrator shall provide counsel for the
28

1 Parties a complete list of all Class Members who submitted a timely and valid Request for
2 Exclusion.

3 33. "Response Deadline" means the deadline by which Class Members must postmark
4 or fax to the Settlement Administrator a valid Request for Exclusion, objection, or workweek
5 dispute. The Settlement Administrator shall continue efforts to properly locate Class Members
6 who have had their Class Notice returned as undeliverable. The Response Deadline will be forty-
7 five (45) calendar days from the initial mailing of the Settlement Notices by the Settlement
8 Administrator unless the 45th day falls on a Sunday or Federal holiday, in which case the
9 Response Deadline will be extended to the next day on which the U.S. Postal Service is open.
10 The Response Deadline for Requests for Exclusion, Objection or workweek disputes will be
11 extended fourteen (14) calendar days for any Class Member who is re mailed a Notice Packet by
12 the Settlement Administrator, unless the 14th day falls on a Sunday or Federal holiday, in which
13 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
14 open. Under no circumstances, however, will the Administrator have the authority to extend the
15 deadline for Class Members to submit a Request for Exclusion, Notice of Objection or
16 Workweeks Dispute to the settlement.

17 34. "Settlement" means the final and complete disposition of the Action pursuant to
18 this Stipulation of Settlement.

19 35. "Settlement Administrator" or "Administrator" means Simpluris or any other
20 third-party action settlement administrator agreed to by the Parties and approved by the Court for
21 purposes of administering this settlement. The Parties each represent that they will not have any
22 financial interest in the Settlement Administrator or otherwise have a relationship with the
23 Settlement Administrator that could create a conflict of interest.

24 36. "Settlement Administration Costs" means the reasonable costs and fees of
25 administering the Settlement to be paid from the Maximum Settlement Amount, not to exceed
26 Eight Thousand Nine Hundred and Ninety-Nine Dollars (\$8,999.00), including, but not limited
27 to: (i) printing, mailing and re-mailing (if necessary) of Settlement Notices to Class Members;

1 (ii) preparing and submitting to Class Members and government entities all appropriate tax filings
2 and forms; (iii) computing the amount of and distributing Individual Settlement Awards, the
3 Class Representative Service Award, the Class Counsel Award; (iv) processing and validating
4 Requests for Exclusion; (v) establishing a Qualified Settlement Fund, as defined by the Internal
5 Revenue Code; (vi) calculating and remitting to the appropriate government agencies all
6 employer and employee payroll tax obligations arising from the Settlement and preparing and
7 submitting filings required by law in connection with the payments required by the Settlement;
8 and (vii) transmitting uncashed Individual Settlement Award payments to the California State
9 Controller's Unclaimed Property division.

10 37. "Settlement Notice" means the Notice of Class Action Settlement, substantially in
11 the form attached as Exhibit 1, which shall be subject to Court approval and which the Settlement
12 Administrator shall mail to each Class Member containing: (i) information regarding the nature of
13 the Action; (ii) a summary of the Settlement's principal terms; (iii) the Class definitions; (iv) the
14 total number of Workweeks the respective Class Member worked for Defendant (according to
15 Defendant's records); (v) the Class Member's estimated Individual Settlement Award and the
16 formula for calculating Individual Settlement Awards; (vi) the dates which comprise the Class
17 Period; (vii) instructions on how to submit disputes regarding Workweeks, Requests for
18 Exclusion, and/or Notices of Objection; (viii) the Response Deadline; and (ix) the claims to be
19 released pursuant to the Settlement of the Action.

20 38. "Workweeks" means the number of workweeks worked by each Class Member
21 during the Class Period. For purposes of this Settlement, Workweeks will be calculated by
22 counting the number of calendar days between each Class Member's first and last days of work in
23 a Class Position during the Class Period and dividing that sum by seven, without regard to any
24 vacations, periods of illness, or leaves of absence taken during the Class Period.

25 39. "Workweek Dispute" means a written statement that a Class Member disputes the
26 number of Workweeks listed on his/her Settlement Notice. Any such Workweek Dispute must be
27 faxed or mailed to the Settlement Administrator by the Response Deadline. The date of the fax or
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1 postmark on the written statement will be the exclusive means to determine whether a Workweek
2 Dispute has been timely submitted. A valid Workweek Dispute must be in writing and should
3 contain: (i) the Class Member's full name, signature, address, telephone number, and the last four
4 digits of his/her Social Security number; (ii) the number of Workweeks the Class Member
5 contends is correct; and (iii) any evidence supporting his/her contention. The dates of
6 employment identified for each Class Member in the applicable Class List will be presumed to be
7 correct, unless a particular Class Member proves otherwise to the Settlement Administrator by
8 credible evidence. All Workweek Disputes will be resolved and decided by the Settlement
9 Administrator, after consultation with counsel for the Parties, and the Settlement Administrator's
10 decision on all Workweek Disputes will be final, subject to the ultimate final approval of the
11 Court if necessary.

12 40. "Workweek Value" means the value of each compensable Workweek, as
13 determined by the formula set forth herein.

14 41. "Workweek Verification" means Defendant certifies that, according to its records,
15 the approximate number of workweeks for all class members from September 25, 2016, to July
16 30, 2021, is 52,050 ("Certified Workweek Amount"). If the number of workweeks increases by
17 more than 10% as of the date of Preliminary Approval, then there shall be a corresponding pro-
18 rata increase in the Net Settlement Amount.

19 **RECITALS**

20 42. Procedural History.

21 a. On September 16, 2020, Plaintiff submitted the PAGA Notice to the
22 LWDA for the purpose of complying with Labor Code §2699.3's notice requirement, giving
23 notice of Plaintiff's intentions to file the PAGA Action.

24 b. On September 25, 2020, Plaintiff filed the Class Action entitled *Denise*
25 *Rivas, on behalf of herself and others similarly situated, v. 8X8, Inc., a Delaware corporation;*
26 *and Does 1 through 50, inclusive*, in Santa Clara County Superior Court (Case No.
27 20CV370842). Defendant timely removed to United States District Court, Northern District of

1 California, where the case was assigned to Judge Lucy H. Koh, Case No. 5:20-cv-07607-LHK.

2 c. On December 1, 2020, Plaintiff filed the PAGA Action entitled *Denise*
3 *Rivas, on behalf of herself and on behalf of all other aggrieved employees v. 8x8, Inc., a*
4 *Delaware corporation; and Does 1 through 50, inclusive*, alleging one cause of action based on
5 the following claims: (1) penalties under the PAGA for failure to pay minimum wages; (2) civil
6 penalties under the PAGA for failure to pay wages and overtime under Labor Code § 510; (3)
7 civil penalties under the PAGA for meal period liability under Labor Code §§ 512 and 226.7; (4)
8 penalties under the PAGA for rest break liability under Labor Code §§ 226.7 and 512; (5)
9 penalties under the PAGA for failure to provide accurate itemized wage statements under Labor
10 Code § 226(a) and keep accurate payroll records under Labor Code § 1174; and (6) penalties
11 under the PAGA for failure to timely pay all wages owed in violation of Labor Code §§ 203 and
12 204.

13 d. On September 24, 2021, the Parties participated in a full-day mediation
14 before Steve Rottman, Esq. at which the parties settled the case, which is now confirmed in this
15 long form Settlement Agreement.

16 e. The parties shall seek approval of this Agreement by filing a motion for
17 approval in the Class and PAGA Actions after they are consolidated in state court in
18 accordance with the terms of this Agreement.

19 43. Benefits of Settlement to Plaintiff and the Class Members. Plaintiff and Class
20 Counsel recognize the expense and length of continued proceedings necessary to litigate
21 Plaintiff's disputes in the Actions through trial and through any possible appeals. Plaintiff also
22 has taken into account the uncertainty and risks of the outcome of further litigation, and the
23 difficulties and delays inherent in such litigation. Plaintiff and Class Counsel are also aware of
24 the burdens of proof necessary to establish liability for the claims asserted in the Actions, both
25 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
26 damages, penalties, restitution and other relief sought in the Actions. Plaintiff and Class Counsel
27 also have taken into account Defendant's agreement to enter into a settlement that confers

1 substantial benefits upon the Class Members. Based on the foregoing, Plaintiff and Class Counsel
2 have determined that the Settlement set forth in this Stipulation of Settlement is fair, adequate,
3 and reasonable and is in the best interests of all Class Members.

4 44. Defendant's Reasons for Settlement. Defendant has concluded that further defense
5 of the Action would be protracted and expensive. Substantial amounts of Defendant's time,
6 energy, and resources have been, and unless this Settlement is completed, shall continue to be,
7 devoted to the defense of the claims asserted by Plaintiff. Defendant has also taken into account
8 the risks of further litigation in reaching its decision to enter into this Settlement. Even though
9 Defendant contends it is not liable for any of the claims alleged by Plaintiff in the Actions and
10 denies any liability whatsoever, Defendant, nonetheless, has agreed to settle in the manner and
11 upon the terms set forth in this Stipulation of Settlement and to fully and finally put to rest the
12 claims alleged in the Actions. Defendant has asserted and continues to assert that the claims
13 alleged by Plaintiff have no merit and do not give rise to any liability, damages, restitution,
14 penalties or other payments. This Stipulation of Settlement is a compromise of disputed claims.
15 Nothing contained in this Stipulation of Settlement, no documents referred to herein, and no
16 action taken to carry out this Stipulation of Settlement, shall be construed or used as an admission
17 by or against Defendant as to the merits or lack thereof of the claims asserted in the Action.
18 Defendant contends that it has complied with all applicable state, federal, and local laws. In the
19 event this Settlement does not obtain final approval, Defendant retains all rights it has to defend
20 itself in this matter and to take any actions in defense of itself that are available to it.

21 CLASS CERTIFICATION

22 45. Solely for purposes of settling the Actions, and not for purposes of class
23 certification should the Settlement not be approved or for any other reason, the Parties stipulate
24 and agree that the requisites for establishing class certification with respect to the Settlement
25 Class have been met and are met. More specifically, for purposes of settlement only, the Parties
26 stipulate and agree that:

27 a. The Settlement Class is ascertainable and so numerous as to make it

1 impracticable to join all Class Members;

2 b. There are common questions of law and fact including, but not limited to,
3 the following:

4 i. Whether Defendant failed to pay employees minimum wages

5 ii. Whether Defendant failed to pay employees wages for all hours
6 worked;

7 iii. Whether Defendant violated Labor Code §§ 226.7 and 512, and the
8 applicable IWC Wage Orders, by failing to provide employees with
9 requisite meal periods or premium pay in lieu thereof;

10 iv. Whether Defendant violated Labor Code §§ 226.7 and the
11 applicable IWC Wage Orders, by failing to provide employees with
12 requisite rest periods or premium pay in lieu thereof;

13 v. Whether Defendant violated Labor Code § 226(a):

14 vi. Whether Defendant violated Labor Code §§ 1174 and 1174.5;

15 vii. Whether Defendant violated Labor Code §§ 221;

16 viii. Whether Defendant violated Labor Code §§ 201, 202, 203 by
17 failing to pay wages and compensation due and owing at the time of
18 termination of employment;

19 ix. Whether Defendant violated Business and Professions Code §
20 17200 *et seq.*;

21 x. Whether employees are entitled to equitable relief pursuant to
22 Business and Professions Code § 17200 *et seq.*;

23 xi. Whether Defendant's standard FCRA disclosure meets 15 U.S.C. §
24 1681b(b)(2)(A)(i)'s "clear and conspicuous disclosure"
25 requirement;

26 xii. Whether Defendant's standard FCRA disclosure is "in a document
27 that consists solely of the disclosure" (15 U.S.C. § 1681

- 1 b(b)(2)(A0(i));
- 2 xiii. Whether Defendant “willfully” violated the FCRA pursuant to 15
- 3 U.S.C. § 1681n.
- 4 c. Class Representative’s claims are typical of the claims of the Settlement
- 5 Class;
- 6 d. Class Representative and Class Counsel will fairly and adequately protect
- 7 the interests of the Settlement Class;
- 8 e. The prosecution of separate actions by individual members of the
- 9 Settlement Class would create the risk of inconsistent or varying adjudications, which would
- 10 establish incompatible standards of conduct; and
- 11 f. Questions of law and fact common to the members of the Settlement Class
- 12 predominate over any questions affecting any individual Class Member, and a class action is
- 13 superior to other available means for the fair and efficient adjudication of the controversy.

14 46. Should this Settlement not be approved or be terminated, all stipulations set forth

15 in the immediately preceding Paragraph shall be null and void and shall not be admissible for any

16 purpose whatsoever.

17 **TERMS OF SETTLEMENT**

18 NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements

19 set forth herein, the Parties agree, subject to the Court’s approval, as follows:

20 47. Binding Settlement. This Settlement shall bind the Parties and all Participating

21 Class Members and Participating PAGA Members, subject to the terms and conditions hereof and

22 the Court’s approval.

23 48. Tax Liability. The Parties make no representations as to the tax treatment or legal

24 effect of the payments specified herein, and Class Members are not relying on any statement or

25 representation by the Parties, Class Counsel, or Defense Counsel in this regard. Participating

26 Class Members, Participating PAGA Members, and Class Counsel understand and agree that they

27 shall be solely and legally responsible for the payment of all applicable taxes and penalties

1 assessed on the payments specified herein.

2 49. Circular 230 Disclaimer. The Parties acknowledge and agree that (i) no provision
3 of this Stipulation of Settlement, and no written communication or disclosure between or among
4 the Parties, Class Counsel, or Defense Counsel and other advisers, is or was intended to be, nor
5 shall any such communication or disclosure constitute or be construed or be relied upon as, tax
6 advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10,
7 as amended); (ii) the acknowledging party (a) has relied exclusively upon his, her, or its own,
8 independent legal and tax counsel for advice (including tax advice) in connection with this
9 Stipulation of Settlement, (b) has not entered into this Stipulation of Settlement based upon the
10 recommendation of any other party or any attorney or advisor to any other party, and (c) is not
11 entitled to rely upon any communication or disclosure by any attorney or adviser to any other
12 party to avoid any tax penalty that may be imposed on the acknowledging party; and (iii) no
13 attorney or adviser to any other party has imposed any limitation that protects the confidentiality
14 of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally
15 binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any
16 transaction, including any transaction contemplated by this Stipulation of Settlement.

17 50. Preliminary Approval of Settlement. Upon remand of the Class Action to state
18 court, Class Counsel will promptly reserve a hearing date in state court as the date for a hearing
19 on Plaintiff's Motion for Preliminary Approval so that the Parties may request provisional
20 certification of the Settlement Class for settlement purposes only and the setting of a Final
21 Approval Hearing date. The Parties agree to work diligently and cooperatively to have this
22 Settlement presented to the Court for preliminary approval. The proposed Order granting
23 Plaintiff's Motion for Preliminary Approval shall be mutually agreed to by the Parties prior to
24 Plaintiff submitting the proposed Order to the Court. The Preliminary Approval Order shall
25 provide for, among other things, the Settlement Notice to be sent to Class Members as specified
26 herein.

27 51. Release by All Participating Class Members. All Participating Class Members,

1 including Plaintiff, shall be deemed to have released their respective Released Claims against the
2 Released Parties upon the Effective Date of this Agreement. Plaintiff and Class Members who do
3 not Request Exclusion will be deemed to have fully, finally, and forever released, settled,
4 compromised, relinquished, and discharged with respect to all of the Released Parties for any and
5 all Released Claims that accrued during the Released Claims Period. The Settlement Class and
6 each Class Member who has not submitted a valid Request for Exclusion, fully releases and
7 discharges the Released Parties for the Released Claims for any period during the Released
8 Claims Period.

9 52. PAGA Release by All Class Members. All Class Members, including Plaintiff and
10 Participating PAGA Members, shall be deemed to have released their respective PAGA Released
11 Claims, premised in whole or in part on any of the claims, facts, or allegations set forth in the
12 PAGA Notice and PAGA Complaint, against the Released Parties upon the date on which the
13 payment of the Maximum Settlement Amount is made by Defendant, as provided in paragraph 55
14 below. It is understood that Class Members will not have the opportunity to opt out of, or object
15 to, the PAGA Release. Further, the Class Members are bounded by the PAGA Release regardless
16 of whether they cash and/or otherwise negotiate their Individual PAGA Payment.

17 53. Additional Release and Waiver of Claims by Plaintiff. In addition to the release of
18 Released Claims against the Released Parties made by all Participating Class Members, as set
19 forth above, Plaintiff, in her individual capacity, agrees to release the Released Parties from any
20 and all claims, known and unknown, under federal, state and/or local law, statute, ordinance,
21 regulation, common law, or other source of law, arising as of the date of execution of this
22 Agreement including but not limited to claims arising from or related to her employment with
23 Defendant and her compensation while an employee of the Defendant (“Plaintiff’s Released
24 Claims”).

25 Plaintiff’s Released Claims include all claims, whether known or unknown. Even if
26 Plaintiff discovers facts in addition to or different from those that she now knows or believes to
27 be true with respect to the subject matter of Plaintiff’s Released Claims, those claims will remain

1 released and forever barred. To effect a full and complete general release as described above,
2 Plaintiff expressly waives and relinquishes all rights and benefits of section 1542 of the Civil
3 Code of the State of California, and does so understanding and acknowledging the significance
4 and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the
5 State of California states as follows:

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

11 Thus, notwithstanding the provisions of section 1542, and to implement a full and
12 complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this
13 Stipulation of Settlement is intended to include in its effect, without limitation, all claims Plaintiff
14 does not know or suspect to exist in Plaintiff's favor at the time of signing this Stipulation of
15 Settlement, and that this Stipulation of Settlement contemplates the extinguishment of any such
16 claims. Plaintiff warrants that she has read this Stipulation of Settlement, including this waiver of
17 California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to
18 consult with counsel of Plaintiff's choosing about this Stipulation of Settlement and specifically
19 about the waiver of section 1542, and that Plaintiff understands this Stipulation of Settlement and
20 the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Stipulation of
21 Settlement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or
22 in addition to those Plaintiff now knows or believes to be true regarding the matters released or
23 described in this Stipulation of Settlement, and even so Plaintiff agrees that the releases and
24 agreements contained in this Stipulation of Settlement shall remain effective in all respects
25 notwithstanding any later discovery of any different or additional facts. Plaintiff expressly
26 assumes any and all risk of any mistake in connection with the true facts involved in the matters,
27 disputes, or controversies released or described in this Stipulation of Settlement or with regard to
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1 any facts now unknown to Plaintiff relating thereto.

2 54. Settlement Administration.

3 a. Within thirty (30) calendar days of entry of the Preliminary Approval
4 Order, Defendant shall provide the Settlement Administrator with the Class Lists for purposes of
5 mailing the Settlement Notices to Class Members, along with data indicating the number of
6 workweeks worked by each class member during the relevant class period. The Settlement
7 Administrator shall not be permitted to share any Class Information included in the Class Lists
8 with Plaintiff or Class Counsel absent express approval by Defendant or Defense Counsel.

9 i. Notice by First Class U.S. Mail. Upon receipt of the Class Lists,
10 the Settlement Administrator shall perform a search based on the
11 National Change of Address Database maintained by the United
12 States Postal Service to update and correct any known or
13 identifiable address changes. Within fourteen (14) calendar days
14 after receiving the Class Lists from Defendant as provided herein,
15 the Settlement Administrator shall mail copies of the Settlement
16 Notice to all Class Members via regular First-Class U.S. Mail. The
17 Settlement Administrator shall exercise its best judgment to
18 determine the current mailing address for each Class Member. The
19 address identified by the Settlement Administrator as the current
20 mailing address shall be presumed to be the most current mailing
21 address for each Class Member. The Parties agree that this
22 procedure for notice provides the best notice practicable to Class
23 Members and fully complies with due process.

24 ii. Undeliverable Settlement Notices. Any Settlement Notice returned
25 to the Settlement Administrator as non-deliverable on or before the
26 Response Deadline shall be re mailed to the forwarding address
27 affixed thereto within five (5) calendar days of receipt of the

1 returned Settlement Notice by the Settlement Administrator. If no
2 forwarding address is provided, the Settlement Administrator shall
3 attempt to determine a correct address by the use of skip-tracing, or
4 other type of automated search, using the name, address and/or
5 Social Security number of the Class Member involved, and shall
6 then perform a re-mailing to the Class Member whose Settlement
7 Notice was returned as non-deliverable within five (5) calendar
8 days of receipt of the returned Settlement Notice by the Settlement
9 Administrator, assuming another mailing address is identified by
10 the Settlement Administrator. Class Members who are sent a re-
11 mailed Settlement Notice shall have their Response Deadline
12 extended by fourteen (14) calendar days from the date the
13 Settlement Administrator re-mails the Settlement Notice. If these
14 procedures are followed, notice to Class Members shall be deemed
15 to have been fully satisfied, and if the intended recipient of the
16 Settlement Notice does not receive the Settlement Notice, the
17 intended recipient shall nevertheless remain a Class Member and
18 shall be bound by all terms of the Settlement and the Final Order
19 and Judgment.
20

21 iii. Determination of Individual Settlement Awards and Individual
22 PAGA Payments. The Settlement Administrator shall determine
23 the eligibility for, and the amounts of, each Individual Settlement
24 Award and Individual PAGA Payment under the terms of this
25 Stipulation of Settlement. The Settlement Administrator's
26 determination of the eligibility for and amount of each Individual
27 Settlement Award and Individual PAGA Payment shall be binding
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1 upon the Class Members and the Parties, subject to the Court's
2 ultimate approval and oversight. In the absence of fraud or gross
3 negligence, Defendant's Workweek estimates shall be presumed
4 accurate.

5 iv. Disputes Regarding Administration of Settlement. Any dispute not
6 resolved by the Settlement Administrator concerning the
7 administration of the Settlement shall be resolved by the Court.

8 b. Monitoring and Reviewing Settlement Administration. The Parties have
9 the right to monitor and review the administration of the Settlement to verify that the monies
10 allocated under the Settlement are distributed in the correct amount, as provided for in this
11 Stipulation of Settlement.

12 c. Certification Reports Regarding Individual Settlement Award Calculations.
13 The Settlement Administrator will provide Defense counsel and Class Counsel a weekly report
14 which certifies: (i) the number of Class Members who have submitted valid Requests for
15 Exclusion or objections; and (ii) whether any Class Member has submitted a challenge to any
16 information contained in their Settlement Notice, including but not limited to the number of Class
17 Members from the Settlement Class who have submitted a Workweek Dispute. Additionally, the
18 Settlement Administrator will provide to counsel for both Parties any updated reports regarding
19 the administration of the Settlement Agreement as needed or requested.

20 d. Best Efforts. The Parties agree to use their best efforts to carry out the
21 terms of this Settlement.

22 55. Funding and Allocation of Maximum Settlement Amount. The Maximum
23 Settlement Amount, together with the amount the Settlement Administrator has determined or
24 estimated to be Defendant's share of employer taxes due on the wages being paid under the
25 Settlement, shall be paid by Defendant in one lump sum payment within thirty (30) calendar days
26 after the Effective Date. Defendant shall provide the Maximum Settlement Amount to the
27 Settlement Administrator in any feasible manner, including, but not limited to, by way of a wire
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1 transfer. Within fifteen (15) calendar days thereafter, the Settlement Administrator will distribute
2 the payments to Plaintiff for her awarded Class Representative Service Award, to Class Counsel
3 for their awarded attorneys' fees and costs, PAGA Payment to the LWDA, Individual Settlement
4 Payment to the Participating Class Members, and PAGA Payment to the Participating PAGA
5 Members. If this Settlement is not finally approved by the Court in full, or is terminated,
6 rescinded, canceled, or fails to become effective for any reason, or if the Effective Date does not
7 occur, then no portion of the Maximum Settlement Amount shall be paid.

8 a. Payments to the Settlement Class. Class Members shall not be required to
9 submit a claim in order to receive a share of the Net Settlement Amount, and no portion of the
10 Maximum Settlement Amount shall revert to Defendant or result in an unpaid residue. The
11 Settlement Administrator shall first compute the Net Settlement Amount by deducting from the
12 Maximum Settlement Amount approved by the Court the Class Counsel Award, Class
13 Representative Service Award, PAGA Payment to the LWDA, and Settlement Administration
14 Costs. To the extent the Court does not approve the full requested attorneys' fees, litigation costs,
15 service award or settlement administration costs, the Net Settlement Amount will increase
16 accordingly, by the difference between the request amount and the amount awarded by the Court.

17 i. Individual Settlement Award: From the Net Settlement Amount, the
18 Settlement Administrator will calculate each Individual Settlement
19 Award by dividing the Net Settlement Amount by the total number
20 of workweeks for the Class resulting in the Workweek Value and
21 then multiplying the Workweek Value by the number of
22 Workweeks worked by each Class Member. All Participating Class
23 Members will be entitled to payment for at least one Workweek.
24 Defendant will provide the total number of Workweeks for each
25 Class Member to the Settlement Administrator. The Settlement
26 Administrator will calculate the number of Workweeks worked by
27 the Class Members in each Subclass during the Class Period, the

1 amount to be paid per Workweek, and the Individual Settlement
2 Awards to eligible Class Members. All Workweek Disputes will be
3 resolved and decided by the Settlement Administrator and the
4 Settlement Administrator's decision on all Workweek Disputes will
5 be final and non-appealable, subject to the Court's ultimate
6 approval and oversight.

- 7 ii. Individual PAGA Payment: The Settlement Administrator will
8 calculate each Class Member's Individual PAGA Payment by
9 dividing the 25% of the PAGA Payment to be distributed to Class
10 Members, i.e. Twelve Thousand Five Hundred Dollars (\$12,500)
11 by the total number of Workweeks for the entire Settlement Class
12 resulting in the PAGA Workweek Value; and then multiplying the
13 PAGA Workweek Value by the number of Workweeks worked by
14 each Participating PAGA Member. All Participating PAGA
15 Members will be entitled to payment for at least one Workweek.
- 16 iii. Each Participating Class Member's Individual Settlement Award
17 and each Participating PAGA Member's Individual PAGA
18 Payment shall be calculated solely by the Settlement Administrator
19 using Defendant's Workweek data. Defendant's Workweek data
20 will be presumed to be correct, unless a particular Class Member
21 proves otherwise to the Settlement Claims Administrator by
22 credible evidence. All Workweek Disputes will be resolved and
23 decided by the Settlement Administrator and the Settlement
24 Administrator's decision on all Workweek Disputes will be final
25 and non-appealable, subject to the Court's ultimate approval.
- 26 iv. Individual Settlement Awards and Individual PAGA Payments
27 shall be mailed by the Settlement Administrator by regular First
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1 Class U.S. Mail to each Participating Class Member/Participating
2 PAGA Member's last known mailing address within fifteen (15)
3 calendar days after Defendant provides the Settlement
4 Administrator with the Maximum Settlement Amount. Prior to
5 mailing the Individual Settlement Awards and the Individual PAGA
6 Payments, the Settlement Administrator shall perform a search
7 based on the National Change of Address Database maintained by
8 the United States Postal Service to update and correct any known or
9 identifiable address changes.

10 v. Should any of the following occur, the Settlement Administrator
11 will proportionately increase the estimated Individual Settlement
12 Award of each Participating Class Member to ensure that the entire
13 Net Settlement Amount is distributed to Participating Class
14 Members: (i) any Class Members submit timely and valid, or
15 otherwise accepted, Requests for Exclusion following the provision
16 of Settlement Notices and expiration of the Response Deadline; (ii)
17 the Court approves the Class Representative Service Award in
18 amounts less than those requested by Plaintiff, as detailed herein;
19 (iii) the Court approves a Class Counsel Award in an amount less
20 than that requested by Plaintiff, as detailed herein; and/or (iv) the
21 Court approves Settlement Administration Costs in an amount less
22 than that requested by Plaintiff, as detailed herein.

23 vi. Individual Settlement Award Payments and Individual PAGA
24 Payments shall be made by check and shall be made payable to
25 each Participating Class Member and Participating PAGA Member
26 as set forth in this Stipulation of Settlement.

27 vii. Individual Settlement Awards shall be allocated as follows: 25% as
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1 alleged unpaid wages subject to all applicable tax withholdings; and
2 75% as alleged unpaid interest and unpaid penalties. The Settlement
3 Administrator shall issue an IRS Form W-2 to each Participating
4 Class Member for the portion of each Individual Settlement Award
5 Payment allocated as alleged unpaid wages and subject to all
6 applicable tax withholdings. The Settlement Administrator shall
7 issue an IRS Form 1099 to each Class Member for the remaining
8 portion of each Individual Settlement Award and for the Individual
9 PAGA Payment, which are allocated as alleged unpaid non-wage
10 penalties and interest and not subject to payroll tax withholdings.
11 The Settlement Administrator shall calculate the amount of the
12 Employer's Share of Payroll Taxes and shall remit and report the
13 applicable portions of the payroll tax payment to the appropriate
14 taxing authorities in a timely manner. Defendant will be
15 responsible for paying its share of the Payroll Taxes and this
16 amount will not be deducted from the Maximum or Net Settlement
17 Amount.

18 viii. Any Individual Settlement Award Payment Check and/or Individual
19 PAGA Payment check issued by the Settlement Administrator to
20 Participating Class Members and Participating PAGA Members
21 must be cashed within 180 days after issuance. After the expiration
22 of the 180-day period, the Settlement Administrator will prepare the
23 Final Report regarding the distribution of the Maximum Settlement
24 Amount, including the total amount that was cashed/deposited by
25 Participating Class Members and Participating PAGA Members
26 and the total amount of any uncashed settlement checks pursuant to
27 California Code of Civil Procedure section 384. After the Final
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Report is filed, the total amount of any uncashed settlement checks shall be paid to the California State Controller's Unclaimed Property division to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*

ix. In the event a Class Member fails to cash/deposit his or her Individual Settlement Award check and/or Individual PAGA Payment check, for whatever reason, the Class Member shall nevertheless remain bound by the Settlement.

x. All monies received by Participating Class Members under the Settlement which are attributable to wages shall constitute income to such Participating Class Members solely in the year in which such monies actually are received by the Participating Class Members. It is expressly understood and agreed that the receipt of Individual Settlement Awards shall not entitle any Participating Class Member to additional compensation or benefits under any collective bargaining agreement or under any bonus, contest or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor shall it entitle any Participating Class Member to any increased pension and/or retirement, or other deferred compensation benefits. It is the intent of the Parties that the Individual Settlement Awards and Individual PAGA Payments provided for in this Stipulation of Settlement are the sole payments to be made by Defendant to Class Members in connection with this Settlement, with the exception of Plaintiff, and that the Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Awards and/or and Individual PAGA

1 Payments. Furthermore, the receipt of Individual Settlement
2 Awards and Individual PAGA Payments by Class Members shall
3 not, and does not, by itself establish any general, special, or joint
4 employment relationship between and among the Class Member(s)
5 and Defendant.

6 b. Class Representative Service Award. For the purposes of this Settlement
7 only, the Parties agree to the designation of Plaintiff Denise Rivas as the Class/PAGA
8 Representative. In recognition of her time and effort in bringing and presenting the Action and for
9 releasing her Released Claims, Plaintiff shall request the Class Representative Service Award not
10 to exceed Ten Thousand Dollars (\$10,000) to Denise Rivas. Plaintiff's request for such Class
11 Representative Service Award shall be subject to approval from the Court. Defendant agrees not
12 to oppose or object to Plaintiff's request for Class Representative Service Award in an amount not
13 to exceed this amount. The Class Representative Service Award will be in addition to Plaintiff's
14 Individual Settlement Payment paid pursuant to the Settlement. The Settlement Administrator
15 shall issue an IRS Form 1099 to Plaintiff for her Class Representative Service Award. Plaintiff
16 shall be solely and legally responsible to pay any and all applicable taxes on her Class
17 Representative Service Award. Any amount requested by Plaintiff for the Class Representative
18 Service Award and not awarded by the Court shall become part of the Net Settlement Amount
19 and shall be distributed to Participating Class Members as part of their Individual Settlement
20 Awards.

21 c. Class Counsel Award. Class Counsel shall be entitled to request attorneys'
22 fees in an amount not to exceed one-third (33.33%) of the Maximum Settlement Amount, which
23 amounts to ^{Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three} ~~Three Hundred Thirty-Three Thousand~~ ^{45 TWG} Dollars and Thirty Three Cents (\$333,333.33). In
24 addition, Class Counsel shall also be entitled to request an award of costs associated with Class
25 Counsel's prosecution of the Action not to exceed Thirty Thousand Dollars (\$30,000). Class
26 Counsel's request for such attorneys' fees and costs shall be subject to approval from the Court.
27 Defendant agrees not to oppose or object to Class Counsel's request for attorneys' fees or to

1 Counsel's request for attorneys' costs up to these amounts. In the event the Court awards Class
2 Counsel less than ^{Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three} ~~Three Hundred Thirty Thousand~~ ^{165 TWG} Dollars and Thirty Three Cents (\$333,333.33)
3 in attorneys' fees and/or less than Thirty Thousand Dollars (\$30,000) in costs, the difference shall
4 become part of the Net Settlement Amount and shall be distributed to Participating Class
5 Members as part of their Individual Settlement Awards. Class Counsel shall be solely and legally
6 responsible to pay all applicable taxes on the Class Counsel Award. Class Counsel shall provide
7 the Settlement Administrator with properly completed and signed copies of IRS Form W-9 in
8 order for the Settlement Administrator to process the Class Counsel Award approved by the
9 Court. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel for the
10 Class Counsel Award.

11 56. Settlement Administration Costs. The Settlement Administration fees and
12 expenses, which are estimated not to exceed Eight Thousand Nine Hundred and Ninety-Nine
13 Dollars (\$8,999.00), shall be paid from the Maximum Settlement Amount. Prior to Plaintiff filing
14 a Motion for Final Approval of the Settlement, the Settlement Administrator shall provide the
15 Parties with a statement detailing the Settlement Administration Costs to date. The Parties agree
16 to cooperate in the Settlement Administration process and to make all reasonable efforts to
17 control and minimize Settlement Administration Costs.

18 a. The Parties each represent they do not have any financial interest in the
19 Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
20 could create a conflict of interest.

21 b. The Settlement Administrator shall keep the Parties timely apprised of the
22 performance of all Settlement Administrator responsibilities required by the Settlement. The
23 Settlement Administrator shall be authorized to establish a Qualified Settlement Fund ("QSF")
24 pursuant to IRS rules and regulations in which the Maximum Settlement Amount shall be placed
25 and from which payments required by the Settlement shall be made.

26 57. Payroll Taxes. In accordance with this Settlement and to the fullest extent
27 possible, the Maximum Settlement Amount shall resolve, satisfy and completely extinguish all of
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1 Defendant's liability with respect to the Class Members, except that the Defendant shall solely be
2 responsible for the employer portion of the payroll taxes on the portion of the Individual
3 Settlement Awards that constitutes wages, and these taxes shall be paid by the Defendant in
4 addition to the Maximum Settlement Amount. Upon the transfer of the Maximum Settlement
5 Amount and the employer portion of payroll taxes on the portion of the Individual Settlement
6 Awards that constitutes wages, Defendant shall have no further payment or defense obligation
7 whatsoever with respect to any claims covered by this Settlement made or asserted by any person
8 or entity anywhere in the world in connection with the Class Members.

9 58. Final Settlement Approval Hearing and Entry of Final Order and Judgment.

10 Following expiration of the Response Deadline, a Final Approval Hearing shall be conducted by
11 the Court for the Court to determine whether to grant final approval of the Settlement, including
12 determining the amounts properly payable for: (i) the Class Counsel Award; and (ii) the Class
13 Representative Service Award. At least sixteen (16) court days prior to the Final Approval
14 Hearing, the Settlement Administrator shall provide a written report or declaration to the Parties
15 describing the process and results of the administration of the Settlement to date, which report or
16 declaration shall be filed by Plaintiff with the Court prior to the Final Approval Hearing. The
17 Parties agree to work diligently and cooperatively to have this Settlement presented to the Court
18 for final approval.

19 59. Duties of the Parties Prior to Court Approval. Promptly upon execution of this
20 Settlement Agreement, the Parties shall stipulate to remand the Class Action to state court (Santa
21 Clara Superior Court), and upon remand, shall take all steps necessary to consolidate the Class
22 Action and PAGA Action before the same state court. The Parties shall then promptly submit this
23 Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary Approval and
24 determination by the Court as to its fairness, adequacy, and reasonableness. The Parties shall
25 apply to the Court for the entry of an order scheduling a fairness hearing on the question of
26 whether the proposed settlement, including payment of attorneys' fees and costs, the Class
27 Representative's Service Award payment, and the PAGA Payment, should be finally approved as

1 fair, reasonable and adequate as to the members of the Settlement Class. As part of Plaintiff's
2 Motion for Preliminary Approval, Plaintiff shall also apply to the Court for the entry of an Order
3 as follows:

- 4 a. Certifying the Settlement Class for settlement purposes only;
- 5 b. Approving, as to form and content, the proposed Settlement Notice and
6 Request for Exclusion;
- 7 c. Approving the manner and method for Class Members to object or request
8 exclusion from the Settlement, as contained herein and within the Settlement Notice;
- 9 d. Directing the mailing of the Settlement Notices to Class Members, by first
10 class mail;
- 11 e. Preliminarily approving the Settlement subject only to the objections of
12 Class Members and final review by the Court; and
- 13 f. Setting a Final Approval Hearing.

14 60. Duties of the Parties Following Final Approval. Following final approval by the
15 Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a
16 proposed Final Order and Judgment:

- 17 a. Approving the Settlement, adjudging the terms thereof to be fair,
18 reasonable and adequate, and directing consummation of its terms and provisions;
- 19 b. Approving Class Counsel's application for an award of attorneys' fees and
20 costs;
- 21 c. Approving the Class Representative Service Award payment to Plaintiff;
- 22 d. Setting a date when the Parties shall submit the Final Report regarding the
23 distribution of the Maximum Settlement Amount pursuant to California Code of Civil Procedure
24 section 384, and, if necessary, a date for a final accounting hearing following its receipt of the
25 Final Report;
- 26 e. Entering judgment in this Action barring and enjoining all members of the
27 Settlement Class from prosecuting against any of the Released Parties, any individual or class, or
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1 representative claims released herein pursuant to the Settlement Agreement, upon satisfaction of
2 all payments and obligations hereunder.

3 61. Revocation of Settlement by Defendant. If ten percent (10%) or more of Class
4 Members opt-out of the Class, Defendant shall have the sole and absolute discretion to
5 rescind/void the Settlement Agreement within fourteen (14) days after receiving from the
6 Settlement Administrator the final list of opt-outs, which the Settlement Administrator will do
7 within fourteen (14) days after the deadline for submission of the Requests for Exclusion.
8 Defendant agrees to meet and confer in good faith with Class Counsel before rescinding or
9 voiding the Settlement Agreement. In the event that Defendant elects to rescind/void the
10 Settlement Agreement, it shall provide written notice of such rescission to Class Counsel. Such
11 rescission shall have the same effect as a termination of this Settlement Agreement for failure to
12 satisfy a condition of settlement, and the Settlement Agreement shall become null and void and
13 have no further force or effect, and the Settlement Class certified pursuant to this Settlement
14 Agreement will be decertified for all purposes. If Defendant chooses to terminate this Settlement
15 Agreement under this provision, it shall be responsible to pay the Settlement Administrator's fees
16 and costs incurred to that point. No party will encourage any Class Member to opt out of the
17 Settlement.

18 62. Nullification of Settlement. In the event: (i) the Court does not enter the
19 Preliminary Approval Order; (ii) the Court does not grant final approval of the Settlement; (iii)
20 the Court does not enter the Final Order and Judgment; or (iv) the Settlement does not become
21 final for any other reason, this Stipulation of Settlement shall be rendered null and void, any order
22 or judgment entered by the Court in furtherance of this Settlement shall be treated as void from
23 the beginning and this Stipulation of Settlement and any documents related to it shall not be used
24 by any Class Member or Class Counsel to support any claim or request for class certification in
25 the Action, and shall not be used in any other civil, criminal or administrative action against
26 Defendant or any of the other Released Parties. Additionally, should the Settlement not become
27 final for any reason, the Parties will request that the Court reopen proceedings within thirty (30)

1 calendar days, and any Settlement Administration Costs already incurred by the Settlement
2 Administrator shall be split evenly amongst the Parties. If Defendant elects to revoke the
3 Settlement, as specified in Paragraph 61, the Parties and any monies required to be paid under this
4 Settlement shall be returned to their respective statuses as of the date and time immediately prior
5 to the execution of this Stipulation of Settlement, and the Parties shall proceed in all respects as if
6 this Stipulation of Settlement had not been executed, except that any Settlement Administration
7 Costs already incurred by the Settlement Administrator shall be paid to the Settlement
8 Administrator by Defendant. In the event an appeal is filed from the Court's Final Order and
9 Judgment, or any other appellate review is sought, administration of the Settlement shall be
10 stayed pending final resolution of the appeal or other appellate review and the stay shall only be
11 lifted if the end result of the appeal or other proceeding is that the terms of this settlement
12 agreement are upheld.

13 63. Plaintiff's Waiver of Right to Be Excluded. Plaintiff agrees that by signing this
14 Settlement Agreement, she will be bound by the terms herein. Plaintiff further agrees that, upon
15 signing this Settlement Agreement, she will not request to be excluded from this Settlement and
16 that any such request for exclusion by Plaintiff will be void and of no force or effect.

17 64. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
18 class certification for purposes of this Settlement only; and either party may appeal any court
19 order that materially alters the Settlement Agreement's terms. Nothing in this Settlement
20 Agreement shall preclude Plaintiff from appealing from a court order denying or failing to grant
21 in full her requests for attorneys' fees, costs, or service award.

22 65. No Admission by Defendant. Defendant denies all claims alleged in this Action
23 and denies all wrongdoing whatsoever by Defendant. Neither this Stipulation of Settlement, nor
24 any of its terms and conditions, nor any of the negotiations connected with it, is a concession or
25 admission, and none shall be used against Defendant as an admission or indication with respect to
26 any claim of any fault, concession, or omission by Defendant or that class certification is proper
27 under the standard applied to contested certification motions. The Parties stipulate and agree to
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1 the certification of the proposed class for settlement purposes only. The Parties further agree that
2 this Stipulation of Settlement will not be admissible in this or any other proceeding as evidence
3 that either (i) a class action should be certified or (ii) Defendant is liable to Plaintiff or any Class
4 Member, other than according to the terms of this Stipulation of Settlement.

5
6 66. Publicity.

7 a. Prior to the Filing of Plaintiff's Motion for Preliminary Approval. Class
8 Representative and Class Counsel will not make any public disclosures of any kind regarding the
9 Settlement, this Stipulation of Settlement, including but not limited to postings on Class
10 Counsel's websites and postings on any social media sites/outlets, until after the Motion for
11 Preliminary Approval is filed. Class Counsel will take all steps necessary to ensure the Class
12 Representative is aware of, and will encourage her to adhere to, the restriction against any public
13 disclosures regarding the Settlement, this Stipulation of Settlement, and the Confidential
14 Memorandum of Understanding executed on September 24, 2021, until after the Motion for
15 Preliminary Approval is filed. Further, Class Counsel will not include, reference, or use the
16 Settlement for any marketing or promotional purposes, or for attempting to influence business
17 relationships at 8x8, Inc., either before or after the Motion for Preliminary Approval is filed.

18 b. Following the Court's Order Granting Preliminary Approval. Class
19 Representative and Class Counsel will not initiate any communications with the media or third
20 parties, and, if contacted by the media or third parties, will only discuss information publicly
21 available. Class Counsel will take all steps necessary to ensure the Class Representative is aware
22 of, and will encourage her to adhere to, the restriction against initiating any media comment.
23 Class Counsel further agrees not to use the Settlement or any of its terms for any marketing or
24 promotional purposes. Nothing herein will restrict Class Counsel from including publicly
25 available information regarding this settlement in future judicial submissions regarding Class
26 Counsel's qualifications and experience. Further, as stated above, Class Counsel will not include,
27 reference or use the Settlement for any marketing or promotional purposes, or for attempting to

1 influence business relationships at 8x8, Inc., either before or after the Motion for Preliminary
2 Approval is filed. Nothing herein will restrict Plaintiff or Class Counsel from communicating
3 with putative members of the Settlement Class about the Settlement following the Court's Order
4 granting Preliminary Approval.

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

9 68. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by
10 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
11 Judgment to the Court for its approval, pursuant to Rule 3.770 of the California Rules of Court.
12 After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
13 addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement
14 administration matters, and (iii) such post-Judgment matters as may be appropriate under court
15 rules or as set forth in this Agreement.

16 69. Exhibits and Headings. The terms of this Stipulation of Settlement include the
17 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully
18 set forth herein. The Exhibits to this Stipulation of Settlement are an integral part of the
19 Settlement. The descriptive headings of any paragraphs or sections of this Stipulation of
20 Settlement are inserted for convenience of reference only.

21 70. Amendment or Modification. This Stipulation of Settlement may be amended or
22 modified only by a written instrument signed by counsel for all Parties or their successors-in-
23 interest.

24 71. Entire Agreement. This Stipulation of Settlement and any attached Exhibits
25 constitute the entire agreement between the Parties, and no oral or written representations,
26 warranties, or inducements have been made to Plaintiff or Defendant concerning this Stipulation
27 of Settlement or its Exhibits other than the representations, warranties, and covenants contained
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1 and memorialized in this Stipulation of Settlement and its Exhibits. No other prior or
2 contemporaneous written or oral agreements may be deemed binding on the Parties.

3 72. Authorization to Enter Into Settlement Agreement. Class Counsel and Defense
4 Counsel warrant and represent they are expressly authorized by the Parties whom they represent
5 to negotiate this Stipulation of Settlement and to take all appropriate actions required or permitted
6 to be taken by such Parties pursuant to this Stipulation of Settlement to effectuate its terms, and to
7 execute any other documents required to effectuate the terms of this Stipulation of Settlement.
8 The Parties, Class Counsel, and Defense Counsel shall cooperate with each other and use their
9 best efforts to carry out the implementation of the Settlement. In the event the Parties are unable
10 to reach agreement on the form or content of any document needed to implement the Settlement,
11 or on any supplemental provisions that may become necessary to effectuate the terms of this
12 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The
13 person signing this Stipulation of Settlement on behalf of the Defendant represents and warrants
14 that he/she is authorized to sign this Stipulation of Settlement on behalf of Defendant. Plaintiff
15 represents and warrants that she is authorized to sign this Stipulation of Settlement and that she
16 has not assigned any claim, or part of a claim, covered by this Stipulation of Settlement to a third
17 party. The Parties have cooperated in the drafting and preparation of this Stipulation of
18 Settlement. Hence, in any construction made of this Stipulation of Settlement, the same shall not
19 be construed against any of the Parties.

20 73. Binding on Successors and Assigns. This Stipulation of Settlement shall be
21 binding upon, and inure to the benefit of, the successors and assigns of the Parties.

22 74. California Law Governs. All terms of this Stipulation of Settlement and the
23 Exhibits hereto shall be governed by and interpreted according to the laws of the State of
24 California, without giving effect to any law that would cause the laws of any jurisdiction other
25 than the State of California to be applied.

26 75. Counterparts. This Stipulation of Settlement may be executed in one or more
27 counterparts. All executed counterparts and each of them shall be deemed to be one and the same

1 instrument.

2 76. This Settlement is Fair, Adequate, and Reasonable. Plaintiff represents that this
3 Settlement is a fair, adequate, and reasonable settlement of the Action and she has arrived at this
4 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,
5 present and potential.

6 77. Jurisdiction of the Court. Following entry of the Final Order and Judgment, the
7 Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement
8 of the terms of this Stipulation of Settlement and all orders and judgments entered in connection
9 therewith, and the Parties, Class Counsel, and Defense Counsel shall submit to the jurisdiction of
10 the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in
11 this Stipulation of Settlement and all orders and judgments entered in connection therewith.

12 78. Invalidity of Any Provision. Before declaring any term or provision of this
13 Stipulation of Settlement invalid, the Parties request that the Court first attempt to construe the
14 terms or provisions valid to the fullest extent possible consistent with applicable precedents so as
15 to define all provisions of this Stipulation of Settlement as valid and enforceable. In the event the
16 Court declares any material provision of this Stipulation of Settlement invalid, the Stipulation of
17 Settlement will be void and its terms will be of no force and effect, except as otherwise agreed to
18 by the Parties in writing.

19 79. Binding Nature of Notice of Class Action Settlement. It is agreed that, because the
20 Class Members are so numerous, it is impossible or impractical to have each Class Member
21 execute the Stipulation of Settlement. The Class Notice shall advise all Class Members of the
22 binding nature of the Settlement, and the release of Released Claims shall have the same force
23 and effect as if this Stipulation of Settlement were executed by each Participating Class Member.

24 80. Notice to LWDA. Class Counsel shall take of submitting any required notices of
25 this Agreement to the LWDA, as may be required by Labor Code sections 2699(1)(2) and (3).

26 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
27 Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff, on the one
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hand, and Defendant, on the other hand, as of the date(s) set forth below:

Dated: June 30, 2022

DocuSigned by:

 57548770A62B416...

Plaintiff Denise Rivas

Dated: June 25, 2022

8x8, INC.

DocuSigned by:

 C36BB2223A4A402...

Matt Zinn

Please Print Name of Authorized Signatory

APPROVED AS TO FORM:

Dated: June 28, 2022

DAVID YEREMIAN & ASSOCIATES, INC.
 DAVTYAN LAW FIRM, INC.

BY: 
 DAVID YEREMIAN
 ROMAN SHKODNIK
 EMIL DAVTYAN

Attorneys for Plaintiff DENISE RIVAS
 GBG LLP

Dated: June 27, 2022

BY: 
 JEN CORNELL
 TERESA W. GHALI

Attorneys for Defendant 8X8, INC.