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Attorneys for Plaintiff
MARIA PADILLA, individually and on behalf
of himself, and all others similarly situated

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

MARIA PADILLA, an individual, on behalf
of all others similarly situated, and also on
behalf of all aggrieved employees

Plaintiffs,

vs.

SCHENKER, INC., a New York corporation;
and DOES 1 through 20, inclusive,
Defendants

Case No. 24STCV02778

CLASS ACTION

*Assigned to the Honorable Lawrence P. Riff,
Dept. 7*

**DECLARATION OF MARIA PADILLA IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION OF CLASS, APPROVAL
OF CLASS NOTICE, AND SETTING OF
FINAL APPROVAL HEARING**

Date: October 22, 2024
Time: 10:00 a.m.
Dept.: 7

Complaint Filed: February 1, 2024

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I, MARIA PADILLA, declare:

1. I am an adult over the age of 18. I have personal knowledge of the facts set forth in this Declaration, and if called as a witness I could and would competently testify to them. I am submitting this Declaration on behalf of myself, as the class Plaintiff, and in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

2. I worked for SCHENKER, INC. ("Defendant") in California as an hourly employee from approximately November 10, 2012 through June 26, 2023.

3. I have actively participated in the litigation of this case. I have given a detailed account of the hours I worked and wages I was paid during my employment with Defendant. I have provided documentation in support of the claims brought against Defendant, including paystubs and documents related to my work with Defendant. I spoke with and assisted my attorneys in understanding the documents and providing context for Defendant's meal and rest period policies, and the processes as they pertained to me and how I believed they applied to other employees of Defendant.

4. My attorneys explained to me the risks and benefits of bringing a class action. I understood and took on the risk, both professionally and financially, of pursuing the case as a class action instead of pursuing my claims individually. I understood that pursuing the case as a class action would take substantially longer than pursuing a claim on an individual basis and that I might get nothing at the end, but I believe it was important to ensure that Defendant followed the law for everyone.

5. I maintained communication with my attorneys throughout the litigation, including
ing the facts and policies at issue in the case. I asked questions when I needed clarification about
aspects of this case to make sure that we were continually striving to advance the interests of this
understood that the recovery from this case was for the benefit of my fellow coworkers, not just
When my attorneys contacted me asking about information or documents related to the case, I
myself available and tried to obtain or provide any additional information that I could. I also

1 provided additional facts and information to assist in the negotiations, carefully considering the points
2 made by the other side to determine if the end result would be fair to all.

3 6. I have reviewed the Class Action and PAGA Settlement Agreement and Release,
4 reviewed the terms and conditions with my attorneys, and asked my attorneys any questions I had. I
5 believe the settlement terms are fair to all class members.

6 7. As a class representative, I took the risk of having to pay Defendant's costs if we were
7 unsuccessful in bringing our claims. I have also provided a waiver and general release of all my known
8 and unknown potential claims beyond those wage and hour claims presented in this action in
9 consideration of this proposed class action settlement.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing is
11 true and correct.

12 Executed this 21st day of August 2024, at Los Angeles, California.

13 

14 MARIA PADILLA

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Attorneys for Plaintiff
MARIA PADILLA, on behalf
of all others similarly situated, and also
on behalf of all aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARIA PADILLA, an individual, on
behalf of all others similarly situated, and
also on behalf of all aggrieved employees

Plaintiffs,

vs.

SCHENKER, INC., a New York
corporation; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 24STCV02778

CLASS ACTION

*Assigned to the Honorable Lawrence P. Riff,
Dept. 7*

**DECLARATION OF SAMANTHA L. ORTIZ
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION OF
CLASS, APPROVAL OF CLASS NOTICE,
AND SETTING OF FINAL APPROVAL
HEARING**

Date: October 22, 2024

Time: 10:00 a.m.

Dept: 7

Complaint Filed: February 1, 2024

1 I, Samantha L. Ortiz, declare as follows:

2 1. I am an attorney duly licensed to practice law in the State of California and a
3 managing attorney at the Law Offices of Ramin R. Younessi, attorney of record for the Plaintiff
4 and the putative class. I have personal knowledge of the matters and documents set forth herein
5 and would and could competently testify thereto if called as a witness herein. I file this
6 declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

7 2. I am the attorney who drafted this revised Motion for Preliminary Approval of
8 Class Action Settlement, which included reviewing the case file and conducting legal research,
9 along with analyzing the confirmatory discovery produced by Defendant Schenker, Inc.
10 ("Defendant") in order to further support the settlement. I was also intimately involved in the case
11 from its inception, including reviewing the class and PAGA data points produced by Defendant,
12 participating in mediation and the settlement negotiations thereafter, reviewing and finalizing the
13 settlement agreement and coordinating the filing of this Action along with the work done in the
14 *Arturo Cordova, et al. v. Schenker, Inc.*, Case No. CIVSB2026809, San Bernardino Superior
15 Court, which preceded this Action and from which the mediation in *Cordova* resulted in the
16 Settlement for the *Padilla* case.

17 3. In the *Cordova* case, Plaintiff Maria Padilla along with 18 other former employees
18 of Defendant brought individual Labor Code claims and a Private Attorney General Act
19 ("PAGA") claim. In order to evaluate the merits of the claims in *Cordova*, the Parties agreed to
20 conduct discovery into all 19 plaintiff's individual claims and also review a sampling of data for
21 the other employees in the relevant PAGA Period of October 27, 2019 and ongoing.

22 4. In connection with the *Cordova* case, Plaintiff Maria Padilla, along with other
23 former employees of Defendant, filed a PAGA notice of violations with the Labor and Workforce
24 Development Agency on October 27, 2020. Attached hereto as **Exhibit 1**, and incorporated
25 herein by this reference, is a true and correct copy of the PAGA notice.

26 5. With the intention of mediating the *Cordova* case, Plaintiff's counsel sought
27 information concerning the PAGA Aggrieved Employees for the PAGA Period.

28 6. Specifically, May 5, 2022, Defendant produced timesheets and time record details

1 in excel format. Upon review of those records, counsel for Plaintiff and Defendant had detailed
2 discussions about the possibility of expanding the claims brought in Cordova to encompass class
3 claims as well as PAGA claims.

4 7. More documents were produced on February 1, 2023 and February 23, 2023,
5 including more information and data in excel format concerning the class and PAGA employees.
6 Still more information and excel spreadsheets were produced by defendant on April 10, 2023 in
7 advance of the June 27, 2023 mediation. The latest spreadsheet reflected the agreed upon random
8 sampling of 20% of the Class Members, or approx. 125 individuals from the Class Period.

9 8. I personally reviewed and analyzed the records produced and the excel
10 spreadsheets in order to analyze the potential violations for the employees represented in this data
11 set.

12 9. Based on the information extracted from the excel spreadsheet, as detailed herein,
13 it was reasonable to believe that this sample size was appropriate and adequately reflected the
14 potential violations allegedly suffered by the rest of the Settlement Class Members. Therefore, the
15 settlement reached herein by the parties is adequate, fair and reasonable in light of the relative
16 legal arguments presented by counsel and the raw data obtained from Defendant's discovery for
17 the sample size of 125 employees over nearly a 4-year period (2019 through 2023 when the case
18 was mediated).

19 10. After counsel for the Parties met and conferred and finalized the revisions to the
20 settlement reached, a Class Action Settlement Agreement and Release ("Settlement Agreement").
21 Attached hereto as **Exhibit 2**, and incorporated herein by this reference, is a true and correct copy
22 of the Settlement Agreement, including Exhibit A which represents the proposed Class Notice.

23 11. I graduated from the University of California, Los Angeles, with a B.A. in Political
24 Science in 2012. I attended Western State College of Law, and received my J.D. in 2016, and
25 became a member of the California State Bar in December 2016. I am admitted to practice in all
26 state courts in California. I am also admitted to practice in all four districts of the United States
27 District Court.
28

1 12. I am a member of the Consumer Attorneys Association of Los Angeles (CAALA)
2 and the Los Angeles County Bar Association. I have personally mediated dozens of cases,
3 prepared cases for trial and arbitration, and opposed and defeated at least 20 dispositive motions
4 during the course of my career.

5 13. I have actively litigated over hundreds of cases in the areas of employment law. I
6 have represented Plaintiffs in cases of varied complexity from the very simple to Plaintiffs in
7 class action and am associated with the Law Offices of Ramin Younessi, counsel of record for
8 Plaintiff that has extensive experience in litigation and complex class action lawsuits such as
9 Plaintiff's case.

10 14. I am an active member of various bar associations, and regularly attend
11 conferences, seminars, and conventions offered by these associations.

12 15. I believe I have a good reputation amongst my peers and am known to advocate
13 for the highest recovery possible for my client. I believe this case is no exception.

14 16. The named plaintiff herein – Maria Padilla - is entitled to a reasonable service
15 payment for her effort and initiative in bringing and helping to prosecute this action. Plaintiff
16 spent a considerable amount of time better apprising herself of her rights, deciding whether
17 remedial action should be taken, how it should be taken, searching for attorneys, and finally
18 contacting Class Counsel, who spent many hours with them discussing her case and the law. In
19 the end Plaintiff decided to vindicate not only her own rights but also those of her former co-
20 workers by filing a class-action lawsuit.

21 17. Plaintiff has been intimately involved in this case since its inception. She has
22 devoted a substantial amount of time in helping Class Counsel effectively develop and prosecute
23 this action at every stage of the litigation. She has provided Class Counsel with information about
24 Defendants, reviewed documents, produced relevant documents, identified witnesses, consulted
25 Class Counsel throughout the litigation numerous times, monitored the progress of the litigation
26 through regular telephone calls and meetings, and reviewed and signed the settlement agreement.

27 18. Plaintiff has spent a significant amount of time with Class Counsel detailing her
28 knowledge of Defendant's practices and helping Class Counsel with the prosecution of this

1 action. She has diligently, adequately, and fairly represented Class Members and has not placed
2 her interests above any member of the putative class. The Parties are in agreement that Plaintiff
3 is entitled to an enhancement for her time and effort in this matter.

4 19. In light of the foregoing Class Counsel believes that an incentive award in the
5 amount of \$7,500 for Plaintiff Maria Padilla is fair and reasonable. This amount is a far cry from
6 the \$50,000 of enhancement awards to the two named plaintiffs approved by the trial court in
7 *Clark*. See *Clark, supra*, 175 Cal.App.4th at 807. Although Class Counsel appreciates that the
8 Court has a duty to ensure that class representatives are not overcompensated at the expense of
9 the class, modest incentive awards in employment class actions, such as the one here, are
10 necessary not only to compensate class representatives for the time they spend in the case, but
11 also, and more importantly, to encourage aggrieved employees to challenge questionable
12 employment practices notwithstanding the very real consequences they may face.

13 **THE DUNK/KULLAR (CLARK) CASES**

14 20. The *Clark* and *Kullar* courts principally wanted to ensure that trial courts, when
15 deciding whether a class-action settlement is fair, adequate, and reasonable, should independently
16 evaluate the settlement amount in light of the strength of the plaintiff's case, and that the plaintiff
17 should provide the court the information necessary to make that evaluation. The *Clark* and
18 *Kullar* courts cite the recognized factors set forth in cases like *Dunk v. Ford Motors Co.*, (1996)
19 48 Cal.App.4th 1794, 1801, that trial courts should examine during the approval process,
20 including (1) the extent of discovery completed and the stage of the proceedings; (2) the strength
21 of plaintiff's case in light of the settlement amount; (3) the risk, expense, complexity, and likely
22 duration of further litigation, as well as the risk of maintaining class-action status through trial;
23 (4) the experience and views of counsel; and (5) the reaction of class members to the proposed
24 settlement. *Dunk*, 48 Cal.App.4th at 799.

25 21. Before filing the lawsuit, Class Counsel investigated and researched the facts and
26 circumstances underlying the pertinent issues and the law applicable thereto. This required
27 thorough discussions between Class Counsel and Plaintiff, as well as preliminary research into
28 the various legal issues involved in the case. After conducting their initial investigation, Class

1 Counsel determined that Plaintiff's claims were well suited for class action adjudication owing to
2 what appeared to be a common course of conduct affecting a similarly situated group of
3 employees.

4 22. Plaintiff has alleged commonality with common questions of law and facts;
5 Plaintiff has typical claims as to the entirety of the class members as she was employed in
6 Defendant's California locations as an hourly employee during the time between October 27,
7 2019 to June 26, 2023 ("Class Period"); Plaintiff asserts she has no claims antagonistic to the
8 other Class Members; Plaintiff and Class Counsel assert that they are adequate representatives;
9 and Plaintiff contends that the class action mechanism is a superior mechanism to resolve the
10 claims of all hourly Class Members.

11 23. Prior to and during the mediation and settlement discussions, the Parties
12 exchanged potential class information, formal and informal discovery. The Parties engaged in an
13 extensive discussion regarding their evaluations of the case and various aspects of the case,
14 including but not limited to, the risks and delays of further litigation, the risks to the Parties of
15 proceeding with class certification and/or representative adjudication, the law relating to meal and
16 rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the
17 evidence produced and analyzed, and among other things.

18 24. Neither I nor Ramin R. Younessi as the attorneys working on and handling this
19 matter on behalf of Plaintiff, have any interest or involvement in the governance of the work of
20 the *cy pres* beneficiary of the settlement in this action: State of California Controller's Unclaimed
21 Property Fund.

22 25. I have directed submission of this declaration, along with the supporting
23 declaration of Maria Padilla, to the LWDA at the time this is being filed and served.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed this 21st day of August, 2024, at Los Angeles, California.

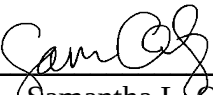
26
27 
28 Samantha L. Ortiz

EXHIBIT 1

LAW OFFICES OF
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PLEASE NOTE THIS FIRM DOES NOT
ACCEPT SERVICE BY FACSIMILE OR EMAIL

October 27, 2020

Via Electronic Filing Only

Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(510) 622-3273

RE: Arturo Cordova, et al. vs. Schenker, Inc.
PRIVATE ATTORNEY GENERAL ACT (Our File No. 14175)

To Whom It May Concern:

Please be informed that Schenker, Inc., located at 3971 Airport Drive, Ontario, California 91761 (referred to as "Respondent"), and any other employers or person(s) acting on behalf of Respondent as such phrase is used under Labor Code sections 558 and 558.1, have committed and/or caused to be committed Labor Code violations against our clients, Maria Arellano, Javier Cabrera, Maria Padilla, Daniel Baltazar, Francisco Calletano, Santos Mendoza, Luis Avila, and Robert Sanchez, as well as other employees working for Respondent within the past four years, including all of Respondent's other locations within California.

Maria Arellano works as a laborer in the sanitation department for Respondent from on or about July 3, 2005 to present, and is a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Ms. Arellano.

Javier Cabrera works as a forklift driver for Respondent from on or about November 8, 2006 to present, and is a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Mr. Cabrera.

Maria Padilla works as a forklift driver for Respondent from in or around November 2012 to present, and is a full-time, non-exempt employee. Respondent failed to provide meal

and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Ms. Padilla.

Daniel Baltazar worked as a forklift driver for Respondent from on or about September 1, 2015 to March 6, 2020, and was a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Mr. Baltazar.

Francisco Calletano works as a forklift driver for Respondent from in or around September 2007 to present, and is a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Mr. Calletano.

Santos Mendoza works as a picker for Respondent from on or about April 1, 2017 to present, and is a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Mr. Mendoza.

Luis Avila worked as a forklift driver for Respondent from on or about November 1, 2018 to September 11, 2020, and was a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Mr. Avila.

Robert Sanchez works as a forklift driver for Respondent from in or around 2006 to present, and is a full-time, non-exempt employee. Respondent failed to provide meal and rest periods, maintain complete and accurate time records, and provide accurate itemized wage statements to Mr. Sanchez.

Further, pursuant to the decision in *Huff v. Securitas Security Services, USA, Inc.* (2018) 23 Cal.App.5th 745, our clients may represent all other potentially aggrieved employees who have been subjected to other additional labor code violations, even though our clients did not suffer the same violations. Our clients are informed and believes that Respondent wrongfully withheld wages, failed to pay wages when due, failed to pay minimum wages, failed to provide meal periods, failed to provide rest breaks, failed to provide timely and accurate itemized wage statements, failed to maintain complete and accurate time records, and/or failed to pay all wages due and owing at the end of other aggrieved employees' employment, as follows:

Respondent violated Labor Code §§ 1182.12, 1194, 1194.2, and 1197 because it failed to pay our clients and/or other aggrieved employees California's statutory minimum wage.

Respondent violated Labor Code §510 because it failed to pay our clients and/or other aggrieved employees overtime, even though they worked more than 8 hours per day and/or 40 hours per week throughout their employment.

Respondent violated Labor Code §§ 512 and 226.7 because it failed to provide our clients and/or other similarly situated employees the requisite 30-minute, uninterrupted meal periods for

every five (5) hours of work throughout their employment, and our clients did not validly waive said meal periods. Respondent failed to affirmatively advise of the right to take statutory meal periods, regularly interrupted meal periods, and/or did not completely relieve all duty during said meal periods. Respondent did not pay to our clients and/or other aggrieved employees one (1) additional hour of pay at their regular rate of compensation for each workday that one or more statutory meal periods was not provided.

Respondent violated Labor Code § 226.7 because it failed to provide our clients and other aggrieved employees 10-minute rest breaks for every four (4) hours of work, or majority portion thereof, throughout their employment. Respondent failed to affirmatively advise our clients and other aggrieved employees of the right to take statutory rest breaks, regularly interrupted our clients' rest breaks, and/or did not completely relieve our clients of all duty during said rest breaks. Respondent did not pay to our clients one (1) additional hour of pay at our clients' regular rate of compensation for each workday that one or more statutory rest breaks was not provided.

Respondent violated Labor Code §§ 226(a)(1), (2), (5) and (9), and 1174 because it failed to provide our clients and other aggrieved employees with itemized wage and hour statements that fully or accurately stated the (1) gross wages earned, (2) total hours worked by the employee, (5) net wages earned, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Our clients' paystubs failed to include all hours worked and omitted the hourly rate for those excluded hours, rendering both the stated gross and net wages false and inaccurate. Respondent further violated Labor Code § 226(a) because it failed to keep a copy of the required itemized statements on file for at least three (3) years at the place of employment or at a central location within the State of California.

Respondent violated Labor Code § 203 because it willfully failed to pay our clients and/or other aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include minimum wages, regular wages earned but not paid, overtime wages, meal/rest period compensation, and all wages due and owing at the end of employment described above.

Respondent violated Labor Code §221 by collecting and/or receiving from our clients and/or other aggrieved employees part of their wages theretofore paid by said Respondent to said employees.

Respondent violated Labor Code §206.5 by requiring our clients, and other aggrieved employees, to execute a release as a condition of being paid, and employees were required to execute a statement of hours they each worked during the pay period which Respondent knew to be false.

Respondent violated Labor Code §§ 98.6 and 1102.5 because it retaliated against our clients and/or other aggrieved employees for complaining that they are owed unpaid wages and for exercising or requesting to exercise their rights under the Labor Code.

Respondent violated Labor Code § 2802 because it failed to indemnify our clients and/or other aggrieved employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties and/or of his or her obedience to the directions.

Each of the aforementioned violations is among the enumerated serious violations set forth in Labor Code § 2699.5, for which there is no statutory right to cure.

Please take further notice that Respondent violated Labor Code §246 because it failed to provide to our clients and its other employees with paid sick leave. Our clients worked for Respondent for more than 30 days and was entitled to accrue paid sick leave at the rate of 1 hour for every 30 hours worked. Our clients and/or other aggrieved employees did not accrue any paid sick leave at all, and if they took time off from work that would have qualified as sick leave, received no wages for this time period.

Respondent violated Labor Code § 227.3 because it failed to pay our clients, and/or other aggrieved employees, wages for unused vested vacation time.

Please take further notice that, based upon the above-mentioned violations, and in addition to the penalties provided by those specific sections themselves, our clients also intend to seek penalties under the following Labor Code sections which themselves are inviolable but provide for recovery of penalties for violating one or more of the above-mentioned Labor Code sections: Labor Code §§ 203, 210, 248.5, 558, 226.3.

Respondent's violations of 8 Code of Regulations § 11090, Industrial Welfare Commission Order No. 9-2001, Labor Code §§ 98.6, 201-203, 221, 226, 226.7, 227.3, 246, 510, 512, 1102.5, 1182.12, 1194, 1194.2, 1197, 2699, and other applicable provisions, as alleged herein (i.e. Respondent wrongfully withheld wages, AND/OR has failed to pay wages when due, AND/OR has failed to pay minimum wages, AND/OR has failed to pay overtime wages, AND/OR has failed to provide meal periods, AND/OR has failed to provide rest breaks, AND/OR has failed to provide timely and accurate itemized wage and hour statements, AND/OR failed to maintain complete and accurate time records AND/OR has failed to pay all wages due and owing at the end of clients' and other aggrieved employees' employment) constitute unfair business practices in violation of Business & Professions Code §§ 17200, et seq.

Please take further notice pursuant to Labor Code § 2699.3(c) that Respondent violated Labor Code § 226.8 because it willfully misclassified our clients and/or other aggrieved employees as independent contractors instead of as employees.

Our clients are informed and believes, and thereon alleges, that they and other employees were subject to the same violations and, therefore, are aggrieved employees within the meaning of California Labor Code § 2699. Thus, our clients, as an aggrieved employee, brings an action against Respondent, on behalf of themselves and other current and former employees.

Should your agency choose not to pursue this matter, this law office intends to vigorously prosecute the aforementioned Labor Code violations on its behalf, and vindicate the rights of all employees who have been subjected to these same Labor Code violations by Respondent.

Respectfully,

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

A handwritten signature in black ink, appearing to read "mae delos santos", written in a cursive style.

**Mae-Elaine Q. Delos Santos
Attorney at Law**

MQE:nan

EXHIBIT 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement of Class Action and PAGA (“Agreement”) is made by and between plaintiff Maria Padilla (“Plaintiff”) and defendant Schenker, Inc. (“Schenker” or “Defendant”). The Agreement refers to Plaintiff and Schenker collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS & STIPULATIONS.

1.1 The Parties agree that Plaintiff Maria Padilla will file a Class Action Complaint, incorporating the PAGA claims in the Pending Action in USDC for the Central District, Case No. 5:21-cv-00469-MEMF-SP to add class claims with the putative class period of October 8, 2019 to September 8, 2023, as part of a global settlement of both PAGA and class claims, which are encompassed in this Agreement. Defendant’s counsel will accept service of the Class Action Complaint.

1.2 “Action” means the Plaintiff’s class action lawsuit alleging wage and hour violations and PAGA penalties against Schenker, captioned as *Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court, Case No. 24STCV02778, filed on February 1, 2024 (“Operative Complaint”).

1.3 “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.4 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.5 “Aggrieved Employee” means all current and former non-exempt employees of Schenker who work or worked for Defendant in California at any time during the PAGA Period.

1.6 “Class” means all current and former non-exempt employees of Schenker who work or worked for Defendant in California at any time during the Class Period.

1.7 “Class Counsel” means Ramin R. Younessi and Samantha Ortiz of the Law Offices of Ramin R. Younessi.

1.8 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.9 “Class Data” means Class Member identifying information in Schenker’s possession including the Class Member’s name, last-known mailing address, social security number, and dates of employment.

1.10 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member, including a Non-Participating Class Member who qualifies as an Aggrieved Employee.

1.11 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.12 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.13 “Class Period” means the period from October 8, 2019 to September 8, 2023.

1.14 “Class Representative” means the named Plaintiff Maria Padilla in the Operative Complaint in the Class Action seeking Court approval to serve as a Class Representative.

1.15 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Class Action and providing services in support of the same.

1.16 “Court” means the Los Angeles County Superior Court, where the Action is pending.

1.17 “Schenker” means named Defendant.

1.18 “Defense Counsel” means P. Dustin Bodaghi and Jamie Y. Lee of Littler Mendelson, P.C.

1.19 “Effective Date” means the date by when both of the following have occurred: the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.20 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.21 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.22 “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.23 “Gross Settlement Amount” means \$500,000.00, which is the total amount Schenker agrees to pay under the Settlement, except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.

1.24 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.25 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.26 “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.27 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd.(i).

1.28 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.29 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.30. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.31 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Schenker for at least one day during the PAGA Period.

1.32 “PAGA Period” means the period from October 27, 2019 to September 8, 2023.

1.33 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.34 “PAGA Notice” means Plaintiff’s letter(s) to Schenker and to LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.35 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.

1.36 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.37 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Class Action and PAGA Settlement.

1.38 "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of the Class Action and PAGA Settlement.

1.39 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40 “Released PAGA Claims” means the claims being released as described in Paragraph 5.2 below.

1.41 “Released Parties” means: Schenker and each of its former and present directors, officers, shareholders, owners, employees, attorneys, insurers, predecessors, successors, assigns, agents, subsidiaries and affiliates.

1.42 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.45 “Workweek” means any week during the Class Period in which a Class Member worked for Schenker at least one day.

2. RECITALS.

2.1 On February 1, 2024, Plaintiff commenced this Action by filing a Class Action Complaint against Schenker. The Operative Complaint alleges causes of action for: 1) failure to pay wages; 2) failure to provide meal and rest periods; 3) failure to provide itemized wage statements; 4) waiting time penalties; 5) private attorney general act; and 6) unfair competition. Schenker denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Schenker and the LWDA by sending the PAGA Notice(s).

2.3 On June 27, 2023, the Parties participated in an all-day mediation with David Phillips of Signature Resolution, which led to this Agreement to settle the Action, including the agreements set forth in Paragraph 1.1.

2.4 Prior to mediation, Plaintiff obtained among other things, hundreds of pages class sample pay data, class sample time data, Defendant’s relevant policies and procedures pertaining to the claims raised in the Operative Complaint, and Plaintiff’s personnel files (inclusive of Plaintiff’s time and payroll records) through both formal and informal discovery. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48

Cal.App.4th 1794, 1801 and *Kullar v. FootLocker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.5 The Court has not granted class certification.

2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement, other than the stipulations set forth in this Agreement.

3. **MONETARY TERMS.**

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Schenker promises to pay \$500,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Schenker has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the Court’s Final Approval of Settlement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Schenker.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiff Maria Padilla: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (in addition to Plaintiff’s Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Schenker will not oppose Plaintiff’s request for a Class Representatives Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 45%, which is currently estimated to be \$225,000.00 and a Class Counsel Litigation Expense Payment of not more than \$15,000.00. Schenker will not oppose requests for these payments provided that do not exceed these amounts. Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class

Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Schenker harmless, and indemnifies Schenker, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$11,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$11,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1 Tax Allocation of Individual Class Payments. 90% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 10% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$40,000 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00) allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$10,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Schenker estimates there are 624 Class Members/Aggrieved Employees who collectively worked a total of 50,147 Workweeks/PAGA Pay Periods.

4.2 Class Data. Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Schenker will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Schenker has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Schenker must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3 Funding of Gross Settlement Amount. Schenker shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Schenker's share of payroll taxes by transmitting the funds to the Administrator no later than 21 days after the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within 14 days after Schenker funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS

forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Schenker to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Schenker fully funds the remaining Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the period from Plaintiff's employment with Defendant to the date of Court's Final Approval of Settlement, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint; (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, ascertained during the Action and released under 5.2, below; (c) all claims whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law; and (d) known or unknown and anticipated or unanticipated claims, including those covered by Civil Code Section 1542 (as quoted in 5.1.1 below) ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agree, nonetheless, that Plaintiff's Release shall beand remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or

releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, the PAGA Notice and ascertained in the course of the Action. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice and ascertained in the course of the Action.

6. MOTION FOR PRELIMINARY APPROVAL. Class Counsel agrees to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals, including promptly obtaining a hearing date for the Motion for Preliminary Approval

6.1 Schenker's Declaration in Support of Preliminary Approval. Schenker will prepare and deliver to Class Counsel a signed Declaration from Schenker and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Schenker shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Class Representative Plaintiff Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest

with Class Members, the Administrator and the proposed Cy Pres; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 20 days after the full execution of this Agreement, and no later than June 24, 2024; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

7.4.1 No later than 7 business days after receipt of the Class Data, the Administrator shall

notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”)mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Schenker or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representatives Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator

must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representatives Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices

returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on its records, Schenker estimates that, as of September 8, 2023, (1) there are 624 Class Members/Aggrieved Employees and 50,147 Total Workweeks during the Class/PAGA period. In the event that the actual number of workweeks through September 8, 2023, exceeds 50,147 by more than 10% greater than this figure (i.e., if there are 55,161 or more workweeks), Defendant agrees to increase the Maximum Settlement Amount on a proportional basis only for those work weeks above the 55,161. For example, if there is an increase of work weeks by 11%, making the total, 55,663, Defendant would have to pay 1% (11% minus the 10% grace amount) additional in Maximum Settlement Amount (i.e., an additional \$5,000.00).

9. SCHENKER'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 2% of the total of all Class Members, Schenker may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Schenker withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Schenker will remain responsible for paying all Settlement Administration Expenses incurred to that point. Schenker must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the

Court.

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representatives Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representatives Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.

Nothing in this Agreement is intended or should be construed as an admission by Schenker that any of the allegations in the Operative Complaint have merit or that Schenker has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Schenker's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Schenker reserves the right to contest certification of any class for any reasons, and Schenker reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Schenker's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Schenker and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Schenker and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Schenker, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

12.6 Cooperation. The Parties and their counsel will cooperate with each other and use

their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Schenker nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

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

12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Schenker in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Schenker unless, prior to the Court's discharge of the Administrator's obligation, Schenker makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Ramin R. Younessi
Samantha Ortiz
Law Offices of Ramin R. Younessi
3435 Wilshire Blvd., Ste. 2200
Los Angeles, CA 90010
RYounessi@younessilaw.com
SOrtiz@younessilaw.com

To Schenker:

P. Dustin Bodaghi
Jamie Y. Lee
Littler Mendelson, P.C.
18565 Jamboree Road, Ste. 800
Irvine, CA 92612
DBodaghi@littler.com
JYLee@littler.com

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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IN WITNESS WHEREOF, this Settlement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

Dated: 06 / 28 / 2024, 2024



Maria Padilla

Dated: 7/11/2024, 2024

SCHENKER, INC.

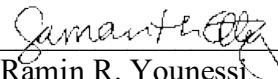
By: 

(Signature) David Buss
Brent Blake
(Printed Name)
CFO CEO
(Title)

APPROVED AS TO FORM ONLY:

Dated: 6/28/2024, 2024

LAW OFFICES OF RAMIN R. YOUNESSI

By: 

Ramin R. Younessi
Samantha Ortiz
Attorneys for Plaintiff and Class

Dated: July 1, 2024

LITTLER MENDELSON, P.C.

By: 

P. Dustin Bodaghi
Jamie Y. Lee
Attorneys for Defendant, Schenker, Inc.

EXHIBIT A

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

Maria Padilla v. Schenker, Inc.

Superior Court of California for the County of Los Angeles, Case No. 24STCV02778

PLEASE READ THIS CLASS NOTICE CAREFULLY.

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Maria Padilla ("Plaintiff") and Defendant Schenker, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court, Case No. 24STCV02778 ("Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" or "Class Member" means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

"Class Period" means the period from October 8, 2019 to September 8, 2023.

"Class Settlement" means the settlement and resolution of all Released Class Claims.

"PAGA Employees" means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the PAGA Period.

"PAGA Period" the period from October 27, 2019 to September 8, 2023.

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On October 28, 2020, Plaintiff provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated ("PAGA Letter"). On February 1, 2024, Plaintiff commenced a putative class action lawsuit by filing a Class Action with a cause of action under the Private Attorneys General Act of 2004 pursuant to California Labor Code Section 2698, *et seq.* ("PAGA") in Los Angeles County Superior Court, Case No. 24STCV02778 ("Action").

Plaintiff contends that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages upon termination of employment and associated waiting-time penalties, and provide accurate wage statements, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, penalties, interest, and attorneys' fees and costs.

Defendant strongly denies all of the allegations in the Action, that it violated any law, or that it failed to pay any wages and contends it complied with all applicable laws.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement").

On [Date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has not

yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks and/or PAGA Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all PAGA Employees will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Employees.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is five hundred thousand dollars (\$500,000.00) (the "Gross Settlement Amount"). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys' fees, in an amount not to exceed forty-five percent (45%) of the Gross Settlement Amount (i.e., \$225,000.00 if the Gross Settlement Amount is \$500,000.00), and reimbursement of litigation costs and expenses, in an amount not to exceed fifteen thousand dollars (\$15,000.00) to Class Counsel; (2) Enhancement Payment in an amount not to exceed seven thousand five hundred dollars (\$7,500.00) to Plaintiff for her services in the Action; (3) the amount of forty thousand dollars (\$40,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Amount"), of which the LWDA will be paid 75% (\$30,000.00) ("LWDA Payment") and the remaining 25% (\$10,000.00) will be distributed to PAGA Employees ("PAGA Employee Amount"); and (4) Settlement Administration Costs in an amount not to exceed eleven thousand dollars (\$11,000.00) to t Phoenix Settlement Administrators ("Settlement Administrator").

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount ("Individual Settlement Share") based on the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee in California during the Class Period ("Workweeks"). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiplied each Class Member's individual Workweeks by the Estimated Workweek Value to yield an estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Members") will be issued their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as ninety percent (90%) as wages, which will be reported on an IRS Form W-2, and ten percent (10%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee's share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Shares resulting in a net payment to the Settlement Class Member ("Individual Settlement Payment"). The employer's share of taxes and contributions in connection with the wages portion of Individual Settlement Shares ("Employer Taxes") will be paid by Defendant separately and in addition to the Gross Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA

Employee Amount (“Individual PAGA Payment”) based on the number of pay periods each PAGA Employee worked for Defendant as an hourly-paid or non-exempt employee in California during the PAGA Period (“Pay Periods”). The Settlement Administrator has divided the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the Pay Periods of all PAGA Employees to yield the “Pay Period Value,” and multiplied each PAGA Employee’s individual Pay Periods by the Pay Period Value to yield each PAGA Employee’s Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and PAGA Workweeks (if applicable) Based on Defendant’s Records

According to Defendant’s records:

- **From October 8, 2019 through September 8, 2023 (i.e., the Class Period), you are credited as having worked [REDACTED] Workweeks.**
- **From October 27, 2019 through September 8, 2023 (i.e., the PAGA Period), you are credited as having worked [REDACTED] Pay Periods**

If you wish to dispute the Workweeks/Pay Periods credited to you, you must submit your dispute in writing to the Settlement Administrator (“Workweeks Dispute”). The Workweeks Dispute must: (a) contain the case name and number of the Class Action (*Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court Case No. 24STCV02778); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) clearly state that you dispute the number of Workweeks and/or Pay Periods credited to you and what you contend is the correct number; (d) include support for your challenge by sending copies of pay stubs or other records; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before [Response Deadline]**.

The Settlement Administrator will accept Defendant’s calculation of Workweeks based on Defendant’s records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant’s Counsel. The Settlement Administrator’s decision is final. You can’t appeal or otherwise challenge its final decision.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Workweeks and Pay Periods (if applicable) credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

“Released Class Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Class Action Complaint, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for the Released Parties’ alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, in violation of California Labor Code Sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 4-2001, and all claims for attorneys’ fees and costs and statutory interest in connection therewith, California Business and Professions Code sections 17200, *et seq.*, and any other claims, including claims for statutory penalties, pertaining to the Class Members. This further includes any and all other claims under California common law, the California Labor Code, California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code alleged in or that could have been alleged under the facts, allegations and/or claims pleaded in the Class Action Complaint.

“Released PAGA Claims” means any and all claims arising from any of the factual allegations in the PAGA Letter and/or in the PAGA Complaint, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*, including all claims for attorneys’ fees and costs related thereto, for Defendant’s alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, and provide complaint wage statements in violation of California Labor Code Sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 4-2001.

“Released Parties” means Defendant and all of Defendant’s past and present subsidiaries, affiliates shareholders, members, agents, predecessors, successors, acquirers, parent, officers, directors, shareholders, employees, agents, principals, representatives, accountants, auditors, consultants, insurers and reinsurers and assigns.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount not to exceed forty-five percent (45%) of the Gross Settlement Amount (i.e., \$225,000.00 if the Gross Settlement Amount is \$500,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed fifteen thousand dollars (\$15,000.00) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. The Attorneys’ Fees and Costs granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of seven thousand five hundred dollars (\$7,500.00) (“Enhancement Payment), in recognition of her services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to her Individual Settlement Payment and Individual PAGA Payment that she is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed eleven thousand dollars (\$11,000.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement and if the Court grants final approval of the Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Employee and if the Court grants final approval of the Settlement, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims against the Released Parties as described in Section III.D above.

As a Class Member and PAGA Employee (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

[Settlement Administrator]

[Mailing Address]

A Request for Exclusion must: (a) contain the case name and number of the Class Action (*Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court Case No. 24STCV02778); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. PAGA Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion by submitting a written objection (“Notice of Objection”) to the Settlement Administrator.

The Notice of Objection must: (a) contain the case name and number of the Class Action (*Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court Case No. 24STCV02778); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

You may also appear at the Final Approval Hearing and present your objection orally, regardless of whether you have submitted a Notice of Objection.

D. Need to Promptly Cash Payment Checks

The front of every check issued for Individual Class Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 7 of the Los Angeles County Superior Court, located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys' Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Unless ordered otherwise by the court, remote appearances for Civil Unlimited and Complex will be conducted via LA CourtConnect through the court's online check-in process available through the court's website at <https://my.lacourt.org/laccwelcome>.

It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action by going to the following website: <https://www.lacourt.org/paos/v2/Login>.

For more information, you can contact the Settlement Administrator listed below, or you contact Plaintiff's attorneys and counsel for the Class (whose information is also below):

Settlement Administrator:

[Settlement Administrator]

[Mailing Address]

[Telephone]

[Email address]

Class Counsel:

Ramin R. Younessi

Samantha Ortiz

Law Offices of Ramin R. Younessi.

3435 Wilshire Boulevard, Suite 2200
Los Angeles, CA 90010
Tel: (213) 480-6200 / Fax: (213) 480-6201

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

EXHIBIT 3

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

Maria Padilla v. Schenker, Inc.

Superior Court of California for the County of Los Angeles, Case No. 24STCV02778

PLEASE READ THIS CLASS NOTICE CAREFULLY.

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Maria Padilla ("Plaintiff") and Defendant Schenker, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court, Case No. 24STCV02778 ("Action"), which may affect your legal rights. On **October 22, 2024**, the Court granted preliminary approval of the settlement and scheduled a hearing on **[hearing date]** at **[time]** ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" or "Class Member" means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

"Class Period" means the period from October 8, 2019 to September 8, 2023.

"Class Settlement" means the settlement and resolution of all Released Class Claims.

"PAGA Employees" means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the PAGA Period.

"PAGA Period" the period from October 27, 2019 to September 8, 2023.

"PAGA Settlement" means the settlement and resolution of all Released PAGA Claims.

II. BACKGROUND OF THE ACTION

On October 28, 2020, Plaintiff provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that Plaintiff contends were violated ("PAGA Letter"). On February 1, 2024, Plaintiff commenced a putative class action lawsuit by filing a Class Action with a cause of action under the Private Attorneys General Act of 2004 pursuant to California Labor Code Section 2698, *et seq.* ("PAGA") in Los Angeles County Superior Court, Case No. 24STCV02778 ("Action").

Plaintiff contends that Defendant failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages upon termination of employment and associated waiting-time penalties, and provide accurate wage statements, and thereby engaged in unfair business practices in violation of the California Business and Professions Code section 17200, *et seq.*, and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, penalties, interest, and attorneys' fees and costs.

Defendant strongly denies all of the allegations in the Action, that it violated any law, or that it failed to pay any wages and contends it complied with all applicable laws.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement").

On **October 22, 2024**, the Court entered an order preliminarily approving the Settlement. The Court has not yet decided

whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks and/or PAGA Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all PAGA Employees will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Employees. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members, the State of California, and PAGA Employees.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is five hundred thousand dollars (\$500,000.00) (the "Gross Settlement Amount"). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys' fees, in an amount not to exceed forty-five percent (45%) of the Gross Settlement Amount (i.e., \$225,000.00 if the Gross Settlement Amount is \$500,000.00), and reimbursement of litigation costs and expenses, in an amount not to exceed fifteen thousand dollars (\$15,000.00) to Class Counsel; (2) Enhancement Payment in an amount not to exceed seven thousand five hundred dollars (\$7,500.00) to Plaintiff for her services in the Action; (3) the amount of forty thousand dollars (\$40,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Amount"), of which the LWDA will be paid 75% (\$30,000.00) ("LWDA Payment") and the remaining 25% (\$10,000.00) will be distributed to PAGA Employees ("PAGA Employee Amount"); and (4) Settlement Administration Costs in an amount not to exceed eleven thousand dollars (\$11,000.00) to t Phoenix Settlement Administrators ("Settlement Administrator").

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount ("Individual Settlement Share") based on the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee in California during the Class Period ("Workweeks"). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiplied each Class Member's individual Workweeks by the Estimated Workweek Value to yield an estimated Individual Settlement Share that each Class Member may be entitled to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Members") will be issued their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as ninety percent (90%) as wages, which will be reported on an IRS Form W-2, and ten percent (10%) as penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). Each Individual Settlement Share will be subject to reduction for the employee's share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Shares resulting in a net payment to the Settlement Class Member ("Individual Settlement Payment"). The employer's share of taxes and contributions in connection with the wages portion of Individual Settlement Shares ("Employer Taxes") will be paid by Defendant separately and in addition to the Gross Settlement Amount.

PAGA Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA

Employee Amount (“Individual PAGA Payment”) based on the number of pay periods each PAGA Employee worked for Defendant as an hourly-paid or non-exempt employee in California during the PAGA Period (“Pay Periods”). The Settlement Administrator has divided the PAGA Employee Amount, i.e., 25% of the PAGA Amount, by the Pay Periods of all PAGA Employees to yield the “Pay Period Value,” and multiplied each PAGA Employee’s individual Pay Periods by the Pay Period Value to yield each PAGA Employee’s Individual PAGA Payment.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Employees at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and PAGA Workweeks (if applicable) Based on Defendant’s Records

According to Defendant’s records:

- **From October 8, 2019 through September 8, 2023 (i.e., the Class Period), you are credited as having worked [REDACTED] Workweeks.**
- **From October 27, 2019 through September 8, 2023 (i.e., the PAGA Period), you are credited as having worked [REDACTED] Pay Periods**

If you wish to dispute the Workweeks/Pay Periods credited to you, you must submit your dispute in writing to the Settlement Administrator (“Workweeks Dispute”). The Workweeks Dispute must: (a) contain the case name and number of the Class Action (*Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court Case No. 24STCV02778); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) clearly state that you dispute the number of Workweeks and/or Pay Periods credited to you and what you contend is the correct number; (d) include support for your challenge by sending copies of pay stubs or other records; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before January 20, 2025**.

The Settlement Administrator will accept Defendant’s calculation of Workweeks based on Defendant’s records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant’s Counsel. The Settlement Administrator’s decision is final. You can’t appeal or otherwise challenge its final decision.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment (if applicable)

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment (if applicable) is based on the number of Workweeks and Pay Periods (if applicable) credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$[REDACTED]. The Individual Settlement Share is subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$[REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment and Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

“Released Class Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Class Action Complaint, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for the Released Parties’ alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, in violation of California Labor Code Sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 4-2001, and all claims for attorneys’ fees and costs and statutory interest in connection therewith, California Business and Professions Code sections 17200, *et seq.*, and any other claims, including claims for statutory penalties, pertaining to the Class Members. This further includes any and all other claims under California common law, the California Labor Code, California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code alleged in or that could have been alleged under the facts, allegations and/or claims pleaded in the Class Action Complaint.

“Released PAGA Claims” means any and all claims arising from any of the factual allegations in the PAGA Letter and/or in the PAGA Complaint, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*, including all claims for attorneys’ fees and costs related thereto, for Defendant’s alleged failure to pay overtime and minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, and provide complaint wage statements in violation of California Labor Code Sections 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, and 1198, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 4-2001.

“Released Parties” means Defendant and all of Defendant’s past and present subsidiaries, affiliates shareholders, members, agents, predecessors, successors, acquirers, parent, officers, directors, shareholders, employees, agents, principals, representatives, accountants, auditors, consultants, insurers and reinsurers and assigns.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount not to exceed forty-five percent (45%) of the Gross Settlement Amount (i.e., \$225,000.00 if the Gross Settlement Amount is \$500,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed fifteen thousand dollars (\$15,000.00) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. The Attorneys’ Fees and Costs granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, and PAGA Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Payment to Plaintiff

Plaintiff will seek the amount of seven thousand five hundred dollars (\$7,500.00) (“Enhancement Payment”), in recognition of her services in connection with the Action. The Enhancement Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to her Individual Settlement Payment and Individual PAGA Payment that she is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed eleven thousand dollars (\$11,000.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and Workweeks Disputes, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement and if the Court grants final approval of the Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims against the Released Parties as described in Section III.D above.

If you are a PAGA Employee and if the Court grants final approval of the Settlement, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims against the Released Parties as described in Section III.D above.

As a Class Member and PAGA Employee (if applicable), you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter (“Request for Exclusion”) to the Settlement Administrator, at the following address:

Phoenix Settlement Administrators
P.O. Box 7208, Orange, CA 92863

A Request for Exclusion must: (a) contain the case name and number of the Class Action (*Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court Case No. 24STCV02778); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that you do not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address above, postmarked **on or before January 20, 2025**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. PAGA Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion by submitting a written objection (“Notice of Objection”) to the Settlement Administrator.

The Notice of Objection must: (a) contain the case name and number of the Class Action (*Maria Padilla v. Schenker, Inc.*, Los Angeles County Superior Court Case No. 24STCV02778); (b) contain your full name, signature, address, telephone number, and the last four (4) digits of your Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before January 20, 2025**.

You may also appear at the Final Approval Hearing and present your objection orally, regardless of whether you have submitted a Notice of Objection.

D. Need to Promptly Cash Payment Checks

The front of every check issued for Individual Class Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 7 of the Los Angeles County Superior Court, located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys' Fees and Costs to Class Counsel, Enhancement Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval Hearing may be continued without further notice to the Class Members and PAGA Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Unless ordered otherwise by the court, remote appearances for Civil Unlimited and Complex will be conducted via LA CourtConnect through the court's online check-in process available through the court's website at <https://my.lacourt.org/laccwelcome>.

It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers, which are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action by going to the following website: <https://www.lacourt.org/paos/v2/Login>.

For more information, you can contact the Settlement Administrator listed below, or you contact Plaintiff's attorneys and counsel for the Class (whose information is also below):

Settlement Administrator:

Phoenix Settlement Administrators
P.O. Box 7208, Orange, CA 92863
(800) 523-5773
info@phoenixclassaction.com

Class Counsel:

Ramin R. Younessi
Samantha Ortiz
Law Offices of Ramin R. Younessi
3435 Wilshire Boulevard, Suite 2200
Los Angeles, CA 90010
Tel: (213) 480-6200 / Fax: (213) 480-6201

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: (800) 523-5773, OR YOU MAY ALSO CONTACT CLASS COUNSEL.

Ramin R. Younessi, Esq. (SBN 175020)
Ryounessi@Ortizlaw.com
Samantha L. Ortiz, Esq. (SBN 312503)
sortiz@younessilaw.com
LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION
3435 Wilshire Blvd, Suite 2200
Los Angeles, CA 90010
Telephone: (213) 480-6200
Facsimile: (213) 480-6201

Attorneys for Plaintiff
MARIA PADILLA, on behalf
of all others similarly situated, and also
on behalf of all aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARIA PADILLA, an individual, on
behalf of all others similarly situated, and
also on behalf of all aggrieved employees

Plaintiffs,

vs.

SCHENKER, INC., a New York
corporation; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 24STCV02778

CLASS ACTION

*Assigned to the Honorable Lawrence P. Riff,
Dept. 7*

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, CONDITIONAL
CERTIFICATION OF CLASS, APPROVAL
OF CLASS NOTICE, AND SETTING OF
FINAL APPROVAL HEARING;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: October 22, 2024
Time: 10:00 a.m.
Dept: 7

Complaint Filed: February 1, 2024

To the Clerk of Court and all interested parties:

PLEASE TAKE NOTICE THAT on October 22, 2024, at 10:00 a.m., or as soon thereafter
as counsel may be heard, in Department 7 of this Court, located at 312 North Spring Street, Los
Angeles, CA 90012, Plaintiff Maria Padilla ("Plaintiff" or "Class Representative") hereby does

1 and will move the Court to:

- 2 (1) Conditionally certify a settlement class.
- 3 (2) Preliminarily approve the parties' proposed class action settlement (the
4 "Settlement") described herein and as set forth and attached in Exhibit 2, attached
5 to the Declaration of Samantha L. Ortiz in Support of Plaintiff's Motion for
6 Preliminary Approval of Class Settlement ("Ortiz Declaration"), including, but not
7 limited to, the means of allocation and distribution of funds, including and not
8 limited to, the allocations for penalties under the California Labor Code Private
9 Attorneys General Act of 2004 ("PAGA Payment"), Attorneys' Fees and Expenses,
10 Service Award, and Administration Expenses;
- 11 (3) Appoint Plaintiff as the Class Representative, her counsel as Class Counsel, and
12 Phoenix Settlement Administration as Settlement Administrator.
- 13 (4) Approve the form of notice to the class of the settlement ("Class Notice"), attached
14 as Exhibit A to the Settlement Agreement [Exhibit 2 of the Ortiz Declaration];
- 15 (5) Schedule a hearing on the final approval of the Settlement as soon thereafter as the
16 Court is available.

17 Plaintiff makes this motion on the grounds that the Settlement is fair, adequate and
18 reasonable and within the range of possible final approval.

19 This motion is based upon this Notice of Motion and Motion for Preliminary Approval of
20 Class Action Settlement, Conditional Certification of Class, Approval of Class Notice, and
21 Setting of Final Approval Hearing; the following Memorandum in Support of Motion for
22 Preliminary Approval of Class Action Settlement, Conditional Certification of Class, Approval of
23 Class Notice, and Setting of Final Approval Hearing; the accompanying Declarations of Class
24 Counsel Samantha L. Ortiz in Support thereof; Proposed Order: (1) Preliminarily Approving
25 Proposed Settlement; (2) Conditionally Certifying Settlement Class; (3) Appointing Class
26 Representative, Class Counsel, and Settlement Administrator; (4) Approving Forms of Notice of
27 Proposed Class Action Settlement, and Request for Exclusion (together, "Notice Packet"); and (5)
28 Setting Hearing for Final Approval; the Court's record of this action; all matters of which the

1 Court may take notice; and such oral or documentary evidence presented at the hearing on the
2 motion.

3
4 DATED: August 21, 2024

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

5
6
7 By: _____

RAMIN R. YOUNESSI
SAMANTHA L. ORTIZ

Attorneys for Plaintiff
MARIA PADILLA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF MOTION**

3 1. In this motion, Plaintiff Maria Padilla (“Plaintiff”) seeks certification of a class for
4 settlement purposes, and preliminary approval of a proposed \$500,000.00 non-reversionary class
5 settlement (“Settlement”) on behalf of a proposed settlement class of all current and former non-
6 exempt employees of Defendant SCHENKER, INC. (“Defendant”) who work or worked for
7 Defendant in California at any time during the Class Period of October 8, 2019 through
8 September 8, 2023 (“Settlement Class Member,” or “Class Member” as further defined in Section
9 III below) and all current and former nonexempt employees of Defendant in California at any
10 time from October 27, 2019 to September 8, 2023 (during the “PAGA Period”). Plaintiff also
11 seeks approval of the proposed form of Notice of Proposed Class Action Settlement (“Class
12 Notice”). See Ortiz Declaration, Exhibit 3. Further, Plaintiff requests that the Court set a date for
13 a final approval hearing, along with related deadlines.

14 Plaintiff seeks the Court’s approval to notify Settlement Class Members about the proposed
15 Settlement and move on to the final approval hearing. Because the final approval hearing will
16 provide the Court with another opportunity to review the Settlement (after receiving the responses
17 of Settlement Class Members), preliminary approval should be granted so long as the proposed
18 Settlement is “within the range of possible approval.” Conte & Newberg, *Newberg on Class*
19 *Actions*, § 11.25 (3d ed. 2006) (quoting Manual For Complex Litigation § 30.41 (Third) (1997));
20 *Holden v. Burlington N., Inc.*, 665 F. Supp. 1398, 1402 (D. Minn. 1987). The Parties have met
21 that minimal evidentiary burden.

22 Plaintiff and Defendant (collectively, the “Parties”) reached settlement through arm’s-
23 length bargaining with the assistance of several experienced counsel and a respected mediator
24 (David Philips, Esq.). The Settlement will result in significant financial benefit to participating
25 Settlement Class Members. The applicable notice(s) clearly apprise Settlement Class Members of
26 their rights to participate in, object to, or opt-out of the Settlement. There is no suggestion of
27 anything other than good faith and fair dealing on all material issues related to the resolution of
28

1 the action. Therefore, the Parties respectfully submit that the proposed Settlement warrants
2 preliminary approval and notice to the Settlement Class Members.

3 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

4 Defendant Schenker, Inc. is a New York corporation involved in global logistics and
5 shipping services. Plaintiff Maria Padilla is a former hourly employee who worked at Schenker,
6 Inc.

7 On February 1, 2024, Plaintiff filed a lawsuit against Defendant entitled *Padilla v.*
8 *Schenker, Inc.*, Los Angeles Superior Court, Case No. 24STCV02778 seeking to represent herself
9 and Class and PAGA Members of Defendant for alleged violations of the California Labor Code.

10 The Parties participated in a private mediation before mediator David Phillips, Esq., on
11 June 27, 2023. The Parties further agreed to conduct informal discovery prior to mediation and
12 that it would serve efficiency interests. The Parties reached a Settlement in continued settlement
13 discussions after conclusion of the mediation session. This settlement, subject to the Court's
14 approval, is the product of substantial effort and expense by the Parties and their counsel. The
15 settlement was reached after an extensive exchange of data to compute damages and numerous
16 conversations, exchanges of correspondence, informal discovery, a full day of mediation, and
17 several rounds of subsequent negotiation over the terms of the Settlement Agreement. The Parties
18 have reached an agreement and executed a Settlement Agreement with all of the terms of the
19 Agreement.

20 Defendant has denied, and continues to deny, any liability and wrongdoing of any kind
21 associated with any of the allegations in the lawsuit, and further denies that the lawsuit is
22 appropriate for class treatment or representative adjudication for any purpose other than for
23 settlement purposes only. Defendant asserts that it properly compensated its employees, provided
24 meal periods, authorized and permitted rest periods, has fully complied with all applicable wage
25 and hour laws and that civil penalties under PAGA are not warranted. Defendant has entered into
26 the Settlement solely for purposes of resolving this dispute.

1 **III. SUMMARY OF THE SETTLEMENT TERMS**

2 The following is a summary of the material elements of the Settlement.

3 **A. The Settlement Class.**

4 The class to be conditionally certified is defined as: All current and former non-exempt
5 employees of Schenker, Inc. who work or worked for Defendant in California at any time during
6 the Class Period of October 8, 2019 through September 8, 2023 (“Class” or “Class Members”).

7 **B. Maximum Settlement Amount and Distributions.**

8 Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of
9 \$500,000 to settle this action on a class wide basis and resolve the Released Claims of Plaintiff
10 and Class Members who do not opt out of the Settlement (*i.e.*, Settlement Class Members). The
11 Gross Settlement Amount includes (1) Individual Class Payments to Participating Class
12 Members; (2) Individual PAGA Payments to Aggrieved Employees; (3) Class Representative
13 Enhancement Award of \$7,500.00 to Plaintiff Maria Padilla in compensation for having initiated
14 and prosecuted this action and undertaken the risk of payment of costs in the event this matter had
15 not been successfully concluded; (4) Class Counsel Award of not more than \$225,000.00 (45% of
16 the Gross Settlement Amount), to compensate Plaintiff’s counsel for all work performed thus far
17 and all work remaining to be performed in documenting and administering the Settlement and
18 securing Court approval; (5) Class Counsel Litigation Expense Payment of not more than
19 \$15,000.00 to compensate Plaintiff’s counsel for actual expended costs incurred in connection
20 with this litigation; (5) Administrator Expenses Payment, not to exceed \$11,000; and (6) PAGA
21 Penalties payment in the amount of \$40,000.00. After all Court-approved deductions from the
22 Gross Settlement Amount, the Net Settlement Amount to be calculated as Gross Settlement
23 Amount, less Class Counsel Award, Class Counsel Litigation Expense Payment, Class
24 Representative Enhancement Award, PAGA Penalties payment, and Administrator Expenses
25 Payment will be available to pay the settlement shares of all Class Members.

26 Individual Class Payments will be paid from the Net Settlement Amount and shall be paid
27 pursuant to the terms in the Settlement Agreement. The Administrator is to circulate to both
28

1 Counsel the class member's anonymized spreadsheet containing the individual settlement
2 payments to the Class and PAGA Members and the data used to calculate the said payment. Once
3 the calculations have been approved by both Counsels then and only then will the settlement
4 administration mail the payments.

5 The PAGA Penalties Payments payable to each Settlement Class Member shall be
6 determined as follows: \$40,000.00 shall be allocated to the release of Plaintiff's PAGA claims.
7 From that allocation, the Administrator shall make the LWDA PAGA Payment to the California
8 Labor and Workforce Development Agency in the amount of \$30,000.00. The LWDA PAGA
9 Payment will be paid from the Gross Settlement Amount within fourteen (14) calendar days after
10 Defendant provides funds to the Administrator. The remaining \$10,000.00 of the amount
11 allocated to the release of Plaintiff's PAGA claim shall be included as part of the Net Settlement
12 Amount for payment to Class Members, regardless of whether any Class Member decides to
13 timely submit a Request for Exclusion.

14 Class Members will release all claims against Defendant and its related persons and
15 entities that were alleged or reasonably could have been alleged, based on the facts in the
16 Operative Complaint, the PAGA Notice and ascertained in the course of the Action for the Class
17 Period. Plaintiff, all Non-Participating Class Members, Aggrieved Employees and the State of
18 California will release Defendant and related persons and entities from the Released PAGA
19 Claims for the PAGA Period.

20 **C. Notice Procedures.**

21 No more than twenty- one (21) business days after entry of the Preliminary Approval
22 Order, Defendant will provide the Administrator with the Class Data for purposes of mailing
23 Class Notices to Settlement Class Members. Within seven (7) days of receipt of the Class Data,
24 the Administrator shall notify Class Counsel that the Class Data has been received and state the
25 number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data for
26 confirmatory purposes only.

27 Within fourteen (14) days of when the Administrator received the Class Data, the
28 Administrator will mail copies of the Class Notice to all Class Members by regular First-Class

1 U.S. Mail based upon their last-known address provided by Defendant. For any notices returned,
2 the Administrator will make reasonable efforts to find corrected addresses and shall re-mail the
3 Class Notice using any forwarding information obtained.

4 Class Members will have 60 days after the Class Notice Packets are mailed to object to or
5 opt out of the Settlement, which will be extended by 14 days if a packet is re-mailed. Those who
6 do not timely return properly completed Requests for Exclusion by January 20, 2025 (extended to
7 February 4, 2025 for re-mailings) will be Settlement Class Members and bound by the Settlement
8 (and be paid their Individual Class Payment). Class Members who validly request exclusion from
9 the Settlement will not be bound by the terms of the Settlement, will not be allowed to object, and
10 will not be entitled to any benefits as a result of the Settlement.

11 If by the Response Deadline and before the Final Approval Hearing, two (2%) percent or
12 more of Settlement Class Members timely and in writing opt out of the Settlement, then
13 Defendant will have the right to rescind the Settlement. The Parties will also have the right to
14 null this agreement if a reviewing Court vacates, reverses or modified the Judgment in a manner
15 that requires a material modification of this Agreement after entry of Final Approval.

16 In such case, the Parties will cooperate to address any appellate court's concerns and
17 obtain Final Approval and entry of Judgment, sharing on a 50-50 basis any additional
18 Administrator Expenses reasonably incurred after remittitur.

19 If a Class Member fails to cash his or her Individual Class Payment and/or Individual
20 PAGA Payment check within 180 days after the date it is mailed to him or her, those checks will
21 be voided and the Administrator shall transmit the funds represented by such checks to the
22 California Controller's Unclaimed Property Fund in the name of the Class Member.

23 **IV. PRELIMINARY APPROVAL OF THE SETTLEMENT IS APPROPRIATE**

24 The settlement of a class action requires approval by the Court. *Dunk v. Ford Motor Co.*,
25 48 Cal. App. 4th 1794, 1800 (1996); Cal. Civ. Proc. Code § 1781(f). California courts look to
26 federal authority for guidance with class action settlements. *Dunk*, 48 Cal. App.4th at 1801, fn.7
27 (citing *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971)). The decision to approve or reject a
28 proposed settlement is within the court's discretion. *Wershba v. Apple Computer, Inc.*, 91 Cal.

1 App. 4th 224, 234-35 (2001) (“In general, questions whether a settlement was fair and reasonable,
2 whether certification of the class was proper, and whether the attorney fee award was proper are
3 matters addressed to the trial court’s broad discretion.”). Accordingly, a court’s decision to
4 approve a class action settlement may be reversed only upon a strong showing of “clear abuse of
5 discretion.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998); *Class Plaintiff v.*
6 *City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1982).

7 Courts review class action settlements in a two-step process: (1) an earlier conditional
8 review by the court; and (2) a later detailed review after the period during which notice is
9 distributed to class members for their comments or objections. Conte & Newberg, *Newberg on*
10 *Class Actions* § 11.24 (4th ed. 2002). This procedure, which is commonly utilized by both
11 federal and state courts, assures class members of the protection of procedural due process
12 safeguards and enables a court to fulfill its role as the guardian of the interest of the settlement
13 class.

14 Preliminary approval of a settlement does not require a court to make a final
15 determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made
16 only at the final approval stage, after notice of the settlement has been given to the class members
17 and they have had an opportunity to voice their views of the settlement or to exclude themselves
18 from the settlement. Cal. R. Ct. 3.769(g).

19 The trial court has broad powers to determine whether a proposed settlement is fair under
20 the circumstances of the case. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. To make
21 this fairness determination, courts must consider several relevant factors, including “the strength
22 of the plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the
23 risk of maintaining class action status through trial, the amount offered in settlement, the extent of
24 discovery completed and the stage of the proceedings, the experience and view of counsel, the
25 presence of a governmental participant, and the reaction of the class members to the proposed
26 settlement.” *Dunk, supra*, 48 Cal.App.4th at 1801. “The list of factors is not exclusive and the
27 court is free to engage in a balancing and weighing of the factors depending on the circumstances
28 of each case.” *Wershba, supra*, 91 Cal.App.4th at 245. Furthermore, courts give “proper

1 deference to the private consensual decision of the parties.” *Hanlon, supra*, 150 F.3d at 1027
2 (citation omitted). Further, a court must take into consideration the additional *Kullar* factor: “the
3 most important factor is the strength of the case for the plaintiffs on the merits, balanced against
4 the amount offered in settlement.” *Kullar v. Footlocker Retail, Inc.*, 168 Cal. App 4th 116, 130
5 (2008) (internal quotation marks and citation omitted).)

6 The proponent of the settlement has the burden to show that it is fair and reasonable.
7 *Wershba, supra*, 91 Cal.App.4th at 245. “A presumption of fairness exists where: (1) the
8 settlement is reached through arm’s-length bargaining; (2) investigation and discovery are
9 sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
10 litigation; and (4) the percentage of objectors is small.” *Id.*; *Dunk, supra*, 48 Cal.App.4th at 1802;
11 *7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000).

12 While the details of the recovery for each Class Member are set forth in the proposed
13 Settlement Agreement, the settlement for each participating Class Member is fair, reasonable, and
14 adequate, given the inherent risk of litigation, the risk relative to class certification, and the costs
15 of litigation.

16 **THE CLARK , DUNK and (KULLAR) CASES**

17 In *Clark*, the two named plaintiffs filed a class-action lawsuit alleging causes of action
18 for unpaid wages, failure to provide meal periods and rest breaks, and other Labor Code
19 violations. *Clark, supra*, 175 Cal.App.4th at 789. The parties subsequently settled the case. *Id.*
20 Under the settlement, each class member would receive approximately \$6.43 per workweek. *Id.*
21 at 791. The settlement agreement further provided that each class representative would receive
22 \$25,000. *Id.* Twenty-three putative class members opted out of the settlement, *id.* at 792, and 20
23 putative class members objected. *Id.* at 793. The objectors challenged the settlement amount. *Id.*
24 Class counsel defended the settlement amount by explaining that defendant’s overtime policy was
25 legally compliant. *Id.* at 795. According to class counsel the overtime claim had absolutely no
26 value. *Id.* at 802. The objectors responded that class counsel had made a “staggering mistake of
27 law” because class counsel had misunderstood how overtime compensation is calculated for
28 commissioned employees. *Id.* at 797. Nonetheless the court granted final approval.

1 The Court of Appeal reversed the trial court’s grant of final approval. *Clark, supra*, 175
2 Cal.App.4th at 798. It did so because the trial court “made no independent assessment of the
3 strength of the plaintiffs’ case, simply accepting class counsel’s assessment of value, including
4 his assertion that the overtime claim . . . had ‘absolutely no’ value.” *Id.* at 802. Because the trial
5 court never independently evaluated the legal strength of the overtime claim, it could have had no
6 way of assessing whether the settlement amount was adequate. *Id.* at 803.

7 In *Kullar*, the plaintiff initially filed his lawsuit solely to recover work-related expenses
8 for which the defendant had failed to reimburse him and others similarly situated. *Kullar, supra*,
9 168 Cal.App.4th at 121. The plaintiff propounded written discovery to the defendant relating to
10 expense reimbursement. *Id.* at 122. Subsequently, the plaintiff got wind that defendant’s
11 practices may have violated additional wage-and-hour laws, particularly failure to provide meal
12 periods, with regard to a subclass of employees. *Id.* at 121. The plaintiff did not propound any
13 discovery related to the new claims. *Id.* at 122. Indeed, “[t]he only documents exchanged
14 relating to the meal period claims appear to be a two-page handwritten record of Kullar’s personal
15 meal period breaks and an employee orientation brochure stating company policies and
16 procedures which include the statement, ‘Rest breaks and meal periods are scheduled based on
17 business levels, hours worked and applicable state laws.’” *Id.* at 122, fn. 1.

18 The *Kullar* parties then settled at mediation. *Kullar, supra*, 168 Cal.App.4th at 122.
19 Neither the parties’ stipulation of settlement nor any other materials presented to the court at
20 preliminary approval discussed the materials reviewed, the conclusions drawn from them when in
21 assessing damages and negotiating the settlement amount, or the problematic legal positions that
22 had been considered and analyzed. *Id.* at 122, fn. 2, 126. Putative class members objected to the
23 settlement. The objectors averred that the plaintiff “failed to conduct reasonable discovery or pre-
24 settlement investigation to determine facts necessary to ascertain the extent of class loss . . . ,
25 including facts regarding the extent and rate of Labor Code violations by defendant, the likely or
26 probable range of damages sustained by . . . class members arising from Labor Code violations by
27 defendant, or the existence and nature of records maintained by the defendant regarding claimed
28 Labor Code violation.” *Id.* at 125, fn. 7 (quoting objection). Further:

1 [T]he objectors argued . . . [that] absolutely no discovery was conducted with
2 respect to the claim that class members were not provided meal periods to which
3 they were entitled. No declarations were filed in support of the settlement indicating
4 the nature of the investigation that had been conducted to determine the number of
5 employees that had allegedly been denied meal breaks, the frequency with which
6 the denials had occurred, or the circumstances surrounding those denials, and no
7 analysis was provided of the factual or legal issues that required resolution to
8 determine the extent of any one-hour-pay penalties to which class members may
9 have been entitled. No time records were produced in discovery nor was the court
10 presented any estimated quantification of the number of one-hour-pay penalties that
11 might be due or any explanation of the factors that were considered in discounting
12 the potential recovery for purposes of settlement.

13 *Id.* at 128-129.

14 The *Kullar* court agreed with the objectors that the plaintiff did not make an adequate
15 showing to enable the court to intelligently assess the settlement. “There was nothing before the
16 court to establish the sufficiency of class counsel’s investigation other than their assurance that
17 they had seen what they needed to see. The record fails to establish in any meaningful way what
18 investigation counsel conducted or what information they reviewed on which they based their
19 assessment of the strength of the class members’ claims, much less does the record contain
20 information sufficient for the court to intelligently evaluate the adequacy of the settlement.” *Id.* at
21 129. As a result, the *Kullar* court required that the plaintiff provide the trial court with sufficient
22 information about the nature and magnitude of the claims being settled and the impediments to
23 recovery to enable it to make an independent assessment of the reasonableness of the settlement.
24 *Id.* at 133.

25 As the foregoing discussion shows, the *Clark* and *Kullar* courts principally wanted to
26 ensure that trial courts, when deciding whether a class-action settlement is fair, adequate, and
27 reasonable, should independently evaluate the settlement amount in light of the strength of the
28 plaintiff’s case, and that the plaintiff should provide the court the information necessary to make
that evaluation. The *Clark* and *Kullar* courts cite the recognized factors set forth in cases like
Dunk v. Ford Motors Co., (1996) 48 Cal.App.4th 1794, 1801, that trial courts should examine
during the approval process, including (1) the extent of discovery completed and the stage of the
proceedings; (2) the strength of plaintiff’s case in light of the settlement amount; (3) the risk,

1 expense, complexity, and likely duration of further litigation, as well as the risk of maintaining
2 class-action status through trial; (4) the experience and views of counsel; and (5) the reaction of
3 class members to the proposed settlement. *Dunk*, 48 Cal.App.4th at 799.

4 Before filing the lawsuit, Class Counsel investigated and researched the facts and
5 circumstances underlying the pertinent issues and the law applicable thereto. This required
6 thorough discussions between Class Counsel and Plaintiff, along with approximately 18 other
7 former employees of Defendant, to determine how widespread the alleged violations were and
8 across how many different job positions. After conducting their initial investigation, Class
9 Counsel determined that Plaintiff's claims were well suited for class action adjudication owing to
10 what appeared to be a common course of conduct affecting a similarly situated group of
11 employees.

12 Class Counsel also thoroughly researched the applicable law regarding the alleged
13 claims and potential defenses and engaged in thorough legal research and discussions with
14 defense counsel regarding possible exemptions applicable to Plaintiffs' claims. These include the
15 provision of Wage Order 5-2001 of the Industrial Welfare Commission permitting waiver by
16 mutual consent of the employer and employee for meal periods of no less than thirty (30) minutes
17 for persons who work more than five (5) hours but not more than six (6) hours in a single work
18 day. See IWC Wage Order 5-2001(11)(A). Class Counsel also thoroughly researched the
19 California Supreme Court's ruling in *Brinker Restaurant Corp. v. Superior Court* (2012) 53
20 Cal.4th 1004, which affirmed that an employer's duty with respect to meal breaks under both
21 Labor Code § 512 and Wage Order 5-2001 is: "to relieve its employees of all duty, relinquish[]
22 control over their activities and permit[] them a reasonable opportunity to take an uninterrupted
23 30-minute meal break, and does not impede or discourage them from doing so." *Brinker*, 53
24 Cal.4th at 1040. Class Counsel devoted a substantial amount of time to researching and mastering
25 these issues because they raised threshold questions that threatened to undermine Plaintiff's
26 claims.

27 Defendant consistently argued that it had valid meal period waiver from many of the Class
28 Members and that regardless of any waivers, that Class Members did in fact have the ability to

1 take compliant meal periods and rather instead chose not to do so. Defendant produced records
2 for approximately 20% of the over 600 employees in the Class Period reflecting that it had
3 electronic timekeeping systems that recorded both clock in and clock out along with meal period
4 times for nearly all of the time that the Class Members worked in the Class Period.

5 **A. The Settlement Resulted from Arm's-Length Negotiations Based Upon**
6 **Thorough Investigation and Discovery.**
7

8 The Parties actively litigated this matter since well before this Action was filed. While the
9 Operative Complaint was filed in February 2024, the Parties along with their counsel have been
10 engaged in discussions concerning the claims, the number of aggrieved employees and the scope
11 of the liability on a class and PAGA basis since late 2020 when the case of *Arturo Cordova, et al.*
12 *v. Schenker, Inc.* (CIVSB2026809, San Bernardino Superior Court) was filed on December 17,
13 2020. Plaintiff Maria Padilla was a plaintiff in the *Cordova* case, which concerned only individual
14 claims asserted by the plaintiffs in that case. The private mediation that resulted in this Settlement
15 was conducted in connection with the *Cordova* claims. The *Cordova* claims were resolved on an
16 individual basis only, with the PAGA cause of action dismissed without prejudice. No portion of
17 the *Cordova* case was resolved with any kind of PAGA settlement. Rather, as a result of the
18 discovery obtained in the *Cordova* case and the significant discussions between counsel and the
19 mediator over the course of several weeks, the Parties determined that a settlement on a class and
20 PAGA basis was appropriate. Plaintiff Maria Padilla agreed to serve as the class representative
21 and the instant Action was filed on a class and PAGA basis.

22 Both Parties conducted significant investigation and informal discovery regarding the
23 facts of the case, including and not limited to, the exchange, review, and analysis of hundreds of
24 pages of documents and data. The Parties engaged in extensive settlement negotiations and
25 participated in a formal, full-day mediation session conducted by David Phillips, Esq., a well-
26 respected mediator experienced in mediating complex labor and employment matters. Prior to
27 and during the mediation and settlement discussions, the Parties exchanged class information and
28 engaged in an extensive discussion regarding their evaluations of the case and various aspects of

1 the case, including but not limited to, the risks and delays of further litigation, the risks to the
2 Parties of proceeding with class certification and/or representative adjudication, the law relating
3 to meal and rest periods, wage-and-hour enforcement, and PAGA representative claims, as well
4 as the evidence produced and analyzed, among other things.

5 During all settlement discussions, the Parties conducted their negotiations at arm's length
6 in an adversarial position. Arriving at a settlement that was acceptable to both Parties was not
7 easy. Even after determining that a class-wide settlement might be appropriate, Defendant and
8 its counsel felt strongly about its ability to prevail on the merits and at certification if the case
9 were presented as a class action, and Plaintiff and Class Counsel believed that they would be able
10 to obtain class certification and prevail at trial.

11 After conducting investigations and informal discovery and exchange of information,
12 extensive settlement negotiations, and with the aid of the mediator's evaluations, the Parties agree
13 that this matter is well-suited for settlement given the legal issues relating to the claims, as well as
14 the costs and risks to both sides that would attend further litigation.

15 The Settlement takes into account the strengths and weaknesses of each side's position
16 and the uncertainty of how the case might have concluded at certification and trial. The Parties
17 have had the opportunity to interview and obtain information from their respective witnesses.
18 Counsel for the Parties have also reviewed documents and information relating to Plaintiff's and
19 Class Members' employment with Defendant and performed significant research into the law
20 concerning class certification, PAGA representative actions, meal and rest periods, wage-and-
21 hour enforcement, Plaintiff's claims, and Defendant's defenses thereto, as well as facts
22 discovered. Defense counsel extensively analyzed Plaintiff's pay and time data, as well as the pay
23 and time data of alleged putative class members, for compliance and potential exposure and
24 liability. The Parties have reached the Settlement based on this large volume of facts, evidence,
25 and investigation. In addition, Counsel for both parties have extensive experience in employment
26 class actions, including significant experience in California wage-and-hour litigation.

1 **B. The Settlement Is Fair, Reasonable, and Adequate.**

2 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless
3 evidence to the contrary is offered. In short, there is a presumption that the negotiations were
4 conducted in good faith. Conte & Newberg, *Newberg on Class Actions* § 11.51 (3d ed. 2006);
5 *Stambaugh v. Superior Court*, 62 Cal. App. 3d 231, 236 (1976) (“the law wisely favors
6 settlements”) (internal quotation marks and citation omitted); *Cellphone Termination Fee Cases*,
7 180 Cal. App. 4th 1110, 1118 (2009) (“public policy generally favors the compromise of complex
8 class action litigation”) (internal quotation marks and citation omitted); *7-Eleven Owners for Fair*
9 *Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“voluntary conciliation and
10 settlement are the preferred means of dispute resolution . . . [t]his is especially true in complex
11 class action litigation”) (internal quotation marks and citation omitted); *Skulnick v. Roberts*
12 *Express, Inc.*, 2 Cal. App. 4th 884, 891 (1992) (“public policy strongly discourages litigation and
13 encourages settlement [because settlements] can produce peace and goodwill in the community
14 while reducing the expense and persistency of litigation”) (citations omitted). This is especially
15 true where, as here, a very experienced, highly regarded neutral mediator, one very familiar with
16 this type of class action in its substance and procedure, presided over the mediation session and
17 started the dialogue that ultimately resulted in the Settlement before the Court.

18 While the recommendations of counsel proposing the settlement are not conclusive, the
19 Court can properly take them into account, particularly where, as here, they have been involved in
20 litigation for some period of time, appear to be competent, have experience with this type of
21 litigation, and have obtained substantial evidence from the opposing party. See Conte &
22 Newberg, *Newberg on Class Actions* § 11.47 (3d ed. 2006). Here, Plaintiff’s counsel both have a
23 great deal of experience in wage and hour class action litigation and have been approved as Class
24 Counsel in dozens of wage and hour class action litigations and settlements. Plaintiff’s counsel
25 and Plaintiff have been actively engaged in litigating the matters that are now before this Court
26 for settlement since their inception. Defendant’s counsel are highly accomplished and
27 experienced and have defended dozens of wage and hour class action litigations and settlements.

1 C. **The Settlement Is Of Significant Value, Within the Range of Possible**
2 **Approval.**

3 The Settlement, which provides for a Maximum Settlement Amount of five hundred
4 thousand dollars (\$500,000), represents a fair, adequate, and reasonable resolution of this matter.
5 The Settlement was calculated using the information and data uncovered during the litigation,
6 case investigation, as well as the informal exchange of information. The Settlement takes into
7 account the potential risks and rewards inherent in any case and, in particular, in this action.
8 Moreover, considering all of the facts and circumstances of the action and the strength of the
9 merits of Plaintiff's case, the Settlement represents a fair, reasonable, and adequate recovery for
10 the Class.

11 Assuming that the Class Counsel Fees and Litigation Expenses Payment, Class
12 Representative Service Payment, LWDA PAGA Payment, and Administration Expenses Payment
13 are approved by the Court and paid in the full amounts provided for by the Settlement, the
14 Settlement provides for a Net Settlement Amount. The Net Settlement Amount to be calculated
15 as Gross Settlement Amount, less Class Counsel Award, Class Representative Enhancement
16 Award, PAGA Payment, and Settlement Administrator Costs. *See* Exhibit 2 to Ortiz Declaration.
17 As discussed in Part III, *supra*, the entire Net Settlement Amount will be fully paid out to the
18 Settlement Class Members, in accordance with the terms of the Settlement. The amount of each
19 Settlement Class Member's Individual Class Settlement Amount will be calculated based on his
20 or her Workweeks. The Parties agree that Workweeks is a fair basis for determining a Settlement
21 Class Member's Individual Class Settlement Amount.

22 Since there is no reversion to the Defendant, all Settlement Class Members who do not
23 request exclusion will share proportionately in the Settlement based upon their total weeks
24 worked during the Class Period as hourly-paid employees. Each Settlement Class Member will
25 receive a notice that details their total work weeks during the Class Period and approximate
26 Individual Class Settlement Payment. Settlement Class Members will have sixty (60) days from
27 the mailing of the Class Notice to opt-out or object to the Settlement. Every Settlement Class
28 Member who does not opt out will receive a check once the Court grants final approval. If any

1 Settlement Class Member fails to cash his or her settlement check within 180 days, the check will
2 be voided and the funds transmitted by the Administrator to the California Controller's
3 Unclaimed Property Fund in the name of the Settlement Class Member.

4 The Gross Settlement Amount is fair and reasonable based on a review of all objective
5 evidence and the merits of Plaintiff's case. The Parties' assessment of the matter is based on
6 extensive research, investigation, informal discovery and class member interviews before and
7 after the litigation.

8 **V. CONDITIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE**

9 The proposed Settlement seeks conditional certification of the Settlement Class. The
10 certification of the Settlement Class is essential to the Settlement. "To obtain certification, a
11 party [generally] must establish the existence of both an ascertainable class and a well-defined
12 community of interest among class members." *Linder*, 23 Cal. 4th at 435. The "community of
13 interest" requirement depends on three factors: (1) whether common issues of law or fact
14 predominate; (2) whether the class representatives have claims that are typical of the class; and
15 (3) whether the class representatives will adequately represent the class. *Richmond*, 29 Cal. 3d at
16 470. However, a lesser standard of scrutiny applies when evaluating these criteria for settlement
17 purposes, and courts should take settlement into account in evaluating class certification. For
18 example, because the Court is certifying this action for settlement purposes only, it need not
19 determine whether the class would be manageable. *Amchen Prods., Inc. v. Windsor*, 521 U.S.
20 591, 620 (1977).

21 Here, the Parties have negotiated for a class settlement and class treatment is warranted
22 for the class for settlement purposes only.

23 **A. The Proposed Class is Ascertainable and Numerous**

24 For a class to exist, the class description must be sufficiently definite so that it is
25 administratively feasible for the court to determine whether a particular individual is a member of
26 the proposed class by reference to objective criteria. The class definition is objective and
27 sufficiently specific to enable potential Class Members, and the Court, to readily determine the
28 parameters of the Settlement Class. *See Clothesrigger, Inc. V. GTE Corp.*, 191 Cal. App. 3d 605,

1 617 (1987). The proposed “Class” consists of all current and former non-exempt employees of
2 Defendant who work for or worked for Defendant in California at any time during the Class
3 Period of October 8, 2019 to September 8, 2023 and “Aggrieved Employees” means all current
4 and former nonexempt employees of Defendant who work or worked for Defendant in California
5 at any time during the PAGA Period from October 27, 2019 to September 8, 2023. This is readily
6 ascertainable and numerous as Defendant has provided the estimated number of 624 Class
7 Members who worked a total of 50,147 Workweeks during the Class/PAGA Period. *See* Exhibit
8 2, Section 8.

9 **B. For Purposes of Settlement Only, the Commonality and Typicality**
10 **Requirements Are Met.**

11 In California, a class certification prerequisite is “a well defined community of interest in
12 the questions of law and fact involved affecting the parties to be represented.” *Daar v. Yellow*
13 *Cab Co.*, 67 Cal. 2d 695, 704 (1967) (citation omitted). Here, Plaintiff alleges that common
14 questions of law and fact predominate with regard to whether the Defendant’s pay practices are
15 compliant with California law—specifically that evidence of the Defendant’s pay and rest break
16 policies are uniform and proven by objective evidence. Defendant maintains that a class could
17 not properly be certified, but will not oppose this for settlement purposes only, acknowledging the
18 low threshold required under such circumstances.

19 Furthermore, typicality simply means that the representatives’ claims are similar to those
20 of class members. The interests of the class representatives need not be identical to those of other
21 class members; the class representatives must simply be similarly situated. *B.W.I. Custom*
22 *Kitchen v. Owens-Illinois, Inc.*, 191 Cal. App. 3d 1341, 1347 (1987); *Classen v. Weller*, 145 Cal.
23 App. 3d 27, 46 (1983). Here, Plaintiff contends, and for purposes of settlement only Defendant
24 does not dispute, that Plaintiff’s respective claims are essentially identical to all other non-
25 exempt, hourly employees of Defendant in California and her claims are typical of such workers
26 with the same common issues.

1 **C. Adequacy of Representation.**

2 Adequacy of representation depends on whether the named Plaintiff and the Plaintiff's
3 attorneys qualify to conduct the proposed litigation and whether the named Plaintiff's interests are
4 antagonistic to those of the Class and PAGA Members. In this case, Plaintiff Maria Padilla's
5 alleged injuries and damages are similar to those of the Class members she seeks to represent.
6 Plaintiff has no claims that are antagonistic to the Class and PAGA Members. Plaintiff's Counsel
7 are experienced and qualified to adequately represent the Class and PAGA members.

8 **VI. THE PROPOSED SETTLEMENT CLASS NOTICE IS ADEQUATE.**

9 California statutory and case law vests the Court with broad discretion in fashioning
10 appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50
11 Cal.App.3d 960, 973-74. A class notice is adequate if it "present[s] a fair recital of the subject
12 matter and proposed terms" of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d
13 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177).

14 The proposed Class Notice describes the Settlement, the deadlines and procedures to opt
15 out of the Settlement, object to the Settlement, and/or submit Workweeks Dispute, and the date and
16 time set for the Final Approval Hearing. The proposed Class Notice summarizes the proceedings
17 to date and the terms and conditions of the Settlement in an informative and coherent manner. The
18 proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.
19 See Exhibit 3. The proposed Class Notice fulfills the requirement of neutrality in notice procedure.
20 "Sufficient information about the case should be provided to enable class members to make an
21 informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th
22 ed. 2004).

23 The proposed Class Notice satisfies all due process requirements and complies with the
24 standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*,
25 §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt, supra*, 50 Cal.App.3d at 960 ("The
26 essentials of due process of law in class suits would appear to be afforded by fair representation in
27 the assertion of claims of class members against the opposing parties in any lawsuit, and notice of
28 the pending suit."). Accordingly, the Court should approve the proposed Class Notice.

1 **VII. REASONABLENESS OF CLASS REPRESENTATIVE ENHANCEMENTS,**
2 **ATTORNEYS' FEES AND COSTS**

3 The Parties believe the amount requested for an enhancement is reasonable and justified
4 under the circumstances. First, Plaintiff remained in regular contact with her attorneys and
5 provided valuable consultations regarding the operational effects of the written policies produced,
6 searched for and produced documents relevant to her employment with Defendant and made
7 herself available as a resource during the full-day mediation and the following settlement
8 negotiations. Plaintiff contends that preliminary approval of the requested Class Representative
9 Service Payment will promote the underlying purpose of a service award in wage and hour class
10 actions: to incentivize employees to enforce state and federal labor laws on behalf of their fellow
11 workers. Given the lack of formal production to Plaintiff's attorneys of contact information to
12 use in interviewing absent class members, Plaintiff was personally able to significantly assist
13 Class Counsel's investigation efforts and spent a substantial amount of time, effort, and incurred a
14 huge risk in order to vindicate and protect the right of all current and former non-exempt
15 employees within the Class period. Plaintiff believes that the Class Representative Payment in the
16 amount of \$7,500.00 is fair and reasonable.

17 The Parties have agreed that, subject to approval by this Court, Class Counsel should be
18 paid an award of up to \$225,000.00 for attorneys' fees. The requested fees are fair compensation
19 for a law firm, involved in undertaking complex, expensive, and time-consuming litigation solely
20 on a contingent basis. Defendant does not oppose the amount of the award in light of the work
21 performed and benefits provided to the Class Members.

22 Plaintiff requests that the Court allow the Class Notice to be sent to the Class and PAGA
23 Members and that after the Notice period, the Court can revisit the issues of the amount of the
24 requested awards if necessary. Plaintiff believes that the award of the magnitude sought herein is
25 reasonable based on the record.
26
27
28

VIII. PROPOSED SCHEDULE OF SETTLEMENT PROCEEDINGS

Plaintiff proposes the following schedule for the fairness hearing and final proceedings, presuming the Court enters its order granting preliminary approval on October 22, 2024.

Date	Event
October 22, 2024	Preliminary Approval hearing (all dates that follow assume Preliminary Approval is granted on this date)
November 5, 2024	Defendant to provide to Administrator with a spreadsheet containing Class Data (14 days after Preliminary Approval)
November 19, 2024	Administrator to mail Class Notices to all Class Members (14 days after receiving Class Data from Defendant)
January 20, 2025 (extended to February 4, 2025)	Last day for Class Members to mail valid objections regarding Settlement (60 days after Administrator mails Class Notices to all Class Members). This deadline is extended 15 days in the event that Class Notice must be re-mailed to the Class Member.
January 20, 2025 (extended to February 4, 2025)	Last day for Class Members to mail valid Request for Exclusion from the Settlement (60 days after Administrator mails Class Notices to all Class Members). This deadline is extended 15 days in the event that Class Notice must be re-mailed to the Class Member.
February 10, 2025	Date by which Administrator will provide all Counsel with a list of all Class Members who submitted timely and valid Requests for Exclusion and/or objections to the Settlement (5 days after the deadline for submission of Requests for Exclusion)
February 28, 2025	Date by which Class Counsel will submit its Motion for Final approval of settlement, class representative fees and class counsel's attorneys' fees and expenses
March 27, 2025	Proposed Final Approval and Fairness Hearing

IX. ACTION REQUESTED AS PART OF THE MOTION FOR PRELIMINARY APPROVAL

Plaintiff requests this Court, as part of the preliminary approval process, do the following:

1. Conditionally certify a settlement class.
2. Preliminarily approve the parties' proposed class action settlement (the "Settlement") described herein and as set forth and attached as "Exhibit 2", the

Ortiz Declaration including, but not limited to, the means of allocation and distribution of funds, including and not limited to, the allocations for penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA Payment”), Attorneys’ Fees and Expenses, Service Award, and Administration Expenses;

3. Appoint plaintiff as the Class Representative, her counsel as Class Counsel, and Phoenix Administration as the Administrator;
4. Approve the form of notice to the class of the settlement (“Class Notice”), attached as Exhibit A to the Settlement Agreement [Exhibit 2 of the Ortiz Declaration]; and
5. Schedule a hearing on the final approval of the Settlement as soon thereafter as the Court is available.

X. CONCLUSION

Accordingly, Plaintiff respectfully requests that the Settlement be given preliminary approval and notice be approved for mailing to the Class and PAGA Members. The proposed order and a proposed notice are filed concurrently herewith.

DATED: August 21, 2024

LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION

By: _____

RAMIN R. YOUNESSI
SAMANTHA L. ORTIZ

Attorneys for Plaintiff
MARIA PADILLA

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Attorneys for Plaintiff

MARIA PADILLA, individually and on behalf
of himself, and all others similarly situated

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

MARIA PADILLA, an individual, on behalf
of all others similarly situated, and also on
behalf of all aggrieved employees

Plaintiffs,

vs.

SCHENKER, INC., a New York corporation;
and DOES 1 through 20, inclusive,
Defendants

Case No. 24STCV02778

CLASS ACTION

*Assigned to the Honorable Lawrence P. Riff,
Dept. 7*

PROOF OF SERVICE

Complaint Filed: February 1, 2024

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 2200, Los Angeles, California 90010.

On August 21, 2024, I served the documents described on the attached **DOCUMENT LIST** on the interested parties in this action as follows:

☒ By emailing true copies addressed to each addressee as follows:

Jamie Y. Lee, Bar No. 228389
jylee@littler.com
P. Dustin Bodaghi, Bar No. 271501
dbodaghi@littler.com
LITTLER MENDELSON P.C.
18565 Jamboree Road, Suite 800
Irvine, California 92612

California Labor & Workforce Development
Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(VIA ELECTRONIC SERVICE ONLY)

☒ BY ELECTRONIC SERVICE: Pursuant to SB 836, I electronically filed a copy of the aforementioned document with California Labor & Workforce Development Agency Only.

☒ BY ELECTRONIC SERVICE: I electronically filed and served a copy of the aforementioned document with Case Anywhere.

Executed on August 21, 2024, at Los Angeles, California.

☒ STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ FEDERAL I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Yolanda Zamora

Yolanda Zamora

DOCUMENT LIST

1. NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION OF CLASS, APPROVAL OF CLASS NOTICE, AND SETTING OF FINAL APPROVAL HEARING; MEMORANDUM OF POINTS AND AUTHORITIES;
2. DECLARATION OF SAMANTHA L. ORTIZ IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION OF CLASS, APPROVAL OF CLASS NOTICE, AND SETTING OF FINAL APPROVAL HEARINGDECLARATION OF ERNESTO MONTES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT;
3. DECLARATION OF MARIA PADILLA IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION OF CLASS, APPROVAL OF CLASS NOTICE, AND SETTING OF FINAL APPROVAL HEARING
4. [PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND SETTING A SETTLEMENT FAIRNESS HEARING

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Attorneys for Plaintiff
MARIA PADILLA, on behalf
of all others similarly situated, and also
on behalf of all aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARIA PADILLA, an individual, on
behalf of all others similarly situated, and
also on behalf of all aggrieved employees

Plaintiffs,

vs.

SCHENKER, INC., a New York
corporation; and DOES 1 through 20,
inclusive,

Defendants.

Case No. 24STCV02778

CLASS ACTION

*Assigned to the Honorable Lawrence P. Riff,
Dept. 7*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND SETTING A
SETTLEMENT FAIRNESS HEARING**

Date: October 22, 2024

Time: 10:00 a.m.

Dept: 7

Complaint Filed: February 1, 2024

1 **[PROPOSED] ORDER**

2 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

3 The Motion for Preliminary Approval of Class Action Settlement came before this Court,
4 on October 22, 2024. The Court having considered the papers submitted in support of the Motion,
5 HEREBY ORDERS THE FOLLOWING:

- 6 1. The following Class is conditionally certified for purposes of settlement only: all
7 current and former non-exempt employees of Schenker, Inc. (“Defendant”) who work
8 or worked for Defendant in California at any time during the Class Period of October
9 8, 2019 through September 8, 2023
- 10 2. The Court grants preliminary approval of the Class based upon the terms set forth in
11 the Settlement agreement filed herewith.
- 12 3. The Settlement appears to be fair, adequate, and reasonable to the Class. The
13 Settlement falls within the range of reasonableness and appears to be presumptively
14 valid, subject only to any objections that may be raised at the final approval hearing
15 and final approval by this Court.
- 16 4. Plaintiff Maria Padilla is conditionally approved as the Class Representative for the
17 Class Members.
- 18 5. The Proposed Class Representative Service Payment of \$7,500 payable to the Class
19 Representative for her services is conditionally approved.
- 20 6. Samantha L. Ortiz, Esq. and the Law Offices of Ramin R. Younessi are conditionally
21 approved as Class Counsel.
- 22 7. The proposed awards of up to two hundred twenty-five thousand dollars (\$225,000.00)
23 for the Class Counsel Award and up to fifteen thousand (\$15,000.00) for Class
24 Counsel Litigation Expenses are conditionally approved.
- 25 8. A final approval hearing on the question of whether the Settlement, the Class Counsel
26 Award, the Class Counsel Litigation Expenses, and the Class Representative Service
27 Payment should be finally approved as fair, reasonable, and adequate as to Settlement
28

Class Members is scheduled in Department 7 on the date and time set forth in Paragraph 15 below.

9. The Court confirms Phoenix Administration as the Administrator.

10. The proposed payment of no more than eleven thousand dollars (\$11,000) for Administrator Expenses is conditionally approved.

11. The Court also hereby conditionally approves the PAGA Penalties Payment of forty thousand (\$40,000), of which 75 % (\$30,000.00) will be paid to the Labor Workforce Development Agency ("LWDA PAGA Payment") and the remainder of \$10,000.00 will be distributed to Settlement Class Members.

12. The Court approves, as to form and content, the Class Notice in substantially the forms attached as Exhibit A to the Settlement Agreement [Exhibit 2 to the Declaration of Samantha Ortiz.] The Court approves the procedure for Settlement Class Members to participate in, to opt out of, and to object to, the Settlement as set forth in the Class Notice.

13. The Court directs the mailing of the Class Notice by first class mail to Settlement Class Members in accordance with the implementation schedule set forth in Paragraph 15 below. The Court finds the dates selected for the mailing and distribution of the Class Notice, as set forth in the Implementation Schedule, meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

14. To facilitate administration of the Settlement pending final approval, the Court hereby enjoins Class Representative and all Settlement Class Members from filing or prosecuting any claims, suits, or administrative proceedings (including, but not limited to, filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations) regarding claims released by the Settlement unless and until such Settlement Class Members have filed valid Requests for Exclusion with the Administrator and the time for filing valid Requests for Exclusion with the

Administrator has elapsed. This provision shall not apply to claims not alleged in the Action.

15. The Court orders the following **Schedule of Settlement Proceedings**:

Date	Event
October 22, 2024	Preliminary Approval hearing (all dates that follow assume Preliminary Approval is granted on this date)
November 5, 2024	Defendant to provide to Administrator with a spreadsheet containing Class Data (14 days after Preliminary Approval)
November 19, 2024	Administrator to mail Class Notices to all Class Members (14 days after receiving Class Data from Defendant)
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February 10, 2025	Date by which Administrator will provide all Counsel with a list of all Class Members who submitted timely and valid Requests for Exclusion and/or objections to the Settlement (5 days after the deadline for submission of Requests for Exclusion)
February 28, 2025	Date by which Class Counsel will submit its Motion for Final approval of settlement, class representative fees and class counsel's attorneys' fees and expenses
March 27, 2025	Proposed Final Approval and Fairness Hearing

IT IS SO ORDERED.

DATED: _____, 2024

Hon. Lawrence P. Riff
Los Angeles Superior Court Judge