

1 **AMENDED CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND**
2 **RELEASE OF CLAIMS**

3 This Class Action and PAGA Settlement Agreement and Release of Claims is entered
4 into by and between Plaintiffs Oscar Estrada and Pablo Calderon, individually and on behalf of
5 all others similarly situated, and Defendant HHM Facility Management, LLC, and is approved
6 by their respective counsel of record, subject to the terms and conditions hereof and the Court's
7 approval.

8 **A. Definitions**

9 1. "Action" or "Lawsuit" means and refers to the cases entitled *Oscar Estrada v.*
10 *HHM Facility Management, LLC*, Alameda County Superior Court Case No. RG20078429; and
11 *Pablo Calderon v. HHM Facility Management, LLC*, Orange County Superior Court, Case No.
12 30-2020-01158108-CU-OE-CXC, which the parties will seek to consolidate into one action
13 pending in the Alameda County Superior Court.

14 2. "Aggrieved Employees" include all persons who are or were previously
15 employed by Defendant in California classified as a non-exempt employee, and those persons
16 who claim they were misclassified as exempt employees by Defendant, from October 19, 2019,
17 through August 1, 2021.

18 3. "Agreement," "Settlement Agreement," "Settlement," or "Stipulation" shall
19 mean this Class Action Settlement Agreement and Release of Claims, including any attached
20 Exhibits.

21 4. "Class Claims will include all claims that were pled in the operative First
22 Amended Complaint or that could have been pled based on the facts alleged therein, including
23 claims for unpaid wages (including failure to pay full, regular, and overtime wages and
24 minimum wages), meal and rest break violations, failure to timely pay final wages, failure to
25 pay split shift premium wages, failure to provide accurate itemized wage statements, failure to
26 itemize sick leave on wage statements, failure to reimburse necessary business expenses, unfair
27 and unlawful business practices, misclassification of employment, and failure to provide one
28 day of rest in seven.

1 5. “Class Counsel” refers to Mehrdad Bokhour of Bokhour Law Group, P.C.,
2 Joshua Falakassa of Falakassa Law, P.C., and Marcus J. Bradley of Bradley/Grombacher LLP.

3 6. “Class Data” means a complete list that Defendant will diligently and in good
4 faith compile from its records and provide to the Settlement Administrator on one spreadsheet
5 and shall include the Settlement Class Members’ full names; last known addresses; telephone
6 numbers; Social Security Numbers; and dates of employment and/or number of Workweeks
7 Worked as non-exempt employees of Defendant during the Class Period and the PAGA Period
8 for each Settlement Class Member.

9 7. “Class Period” and “Class Release Period” shall mean October 19, 2016, through
10 August 1, 2021.

11 8. “Class Representatives” or “Plaintiffs” means and refers to Oscar Estrada and
12 Pablo Calderon.

13 9. “Complaint” refers to the First Amended Complaint to be filed in the Alameda
14 County Superior Court action entitled *Estrada et al. v. HHM Facility Management, LLC*, Case
15 No. RG20078429, and that will include all non-duplicative claims pled in *Pablo Calderon v.*
16 *HHM Facility Management, LLC*, Orange County Superior Court, Case No. 30-2020-
17 01158108-CU-OE-CXC, will add Pablo Calderon as a named class representative and will
18 remove Julius Leonard as a Plaintiff.

19 10. “Court” means the California Superior Court, County of Alameda or any Court
20 of competent jurisdiction.

21 11. “Defendant” means and refers to HHM Facility Management, LLC.

22 12. “Defendant’s Counsel” or “Defense Counsel” means and refers to David A.
23 Wimmer and Lori Yankelevits of Swerdlow Florence Sanchez Swerdlow & Wimmer, a Law
24 Corporation.

25 13. “Effective Date” means the latest of the following dates: sixty-one (61) calendar
26 days following the date the Court enters an order granting final approval of the Settlement,
27 assuming no appeal is filed; or if a timely appeal is filed, the date of final resolution of that
28 appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final

judicial approval of the Settlement.

14. “Final” means that the Settlement has been granted “Final Approval” by the Court and the “Effective Date” has occurred.

15. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Settlement on substantially the same terms provided herein or as may be modified by subsequent agreement of the Parties or order of the Court.

16. “Final Settlement Class” means, collectively, all Participating Class Members and all Aggrieved Employees.

17. “Individual Settlement Amount” shall have the meaning ascribed to it in Paragraph 48(d) below.

18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 48(c) below.

19. “Notice” means the notice of settlement of class action and PAGA Settlement that will be sent to the Settlement Class Members.

20. “Notice Response Deadline” is 45 calendar days from the date the Notice is mailed to the Settlement Class Members.

21. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiffs, who submits a valid and timely objection to the terms of this Agreement with respect to the Class Claims pursuant to Paragraph 70(a) below.

22. “PAGA” shall refer to the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698-2699.5.

23. “PAGA Claims” shall include any and all claims for civil penalties pursuant to PAGA based on the allegations stated in the PAGA Notices and that were pled in the operative First Amended Complaint or that could have been pled based on the facts alleged therein, including claims for unpaid wages (including failure to pay full, regular, and overtime wages and minimum wages), meal and rest break violations, failure to timely pay final wages, failure to pay split shift premium wages, failure to provide accurate itemized wage statements, failure

1 to itemize sick leave on wage statements, failure to reimburse necessary business expenses,
2 unfair and unlawful business practices, misclassification of employment, and failure to provide
3 one day of rest in seven.

4 24. "PAGA Notices" shall refer to the notice sent by Plaintiff Estrada, by and
5 through counsel, on or about October 16, 2020, and the notice sent by Plaintiff Calderon on or
6 about August 31, 2020, to the LWDA and to Defendant, alleging that Defendant engaged in
7 violations of the California Labor Code and California Wage Orders.

8 25. "PAGA Period" and "PAGA Release Period" shall mean October 19, 2019,
9 through August 1, 2021, or the Preliminary Approval Date, whichever occurs first.

10 26. "Participating Class Member" means any and all Settlement Class Members who
11 are deemed to participate and receive an Individual Settlement Amount for the Class Claims and
12 who do not opt-out of the settlement of the Class Claims by submitting timely valid Requests
13 for Exclusion.

14 27. "Parties" or "Settling Parties" mean Plaintiffs, the Settlement Class Members,
15 the Aggrieved Employees, and Defendant, collectively.

16 28. "Preliminary Approval Date" means the date the Court preliminarily approves
17 the Settlement Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

18 29. "Preliminary Approval Order" means the judicial Order to be entered by the
19 Court, upon the application or motion of the Plaintiffs, preliminarily approving this Settlement
20 and providing for the issuance of the Notice to the Settlement Class Members, an opportunity to
21 opt out of settlement of the Class Claims , an opportunity to submit timely objections to the
22 terms of this Settlement related to the Class Claims, and setting a hearing on the fairness of the
23 terms of Settlement, including approval of attorneys' fees and costs. Defendant will not object
24 to Plaintiffs' motion for preliminary approval as long as it comports with the terms of this
25 Agreement.

26 30. "QSF" means the Qualified Settlement Fund set up by the Settlement
27 Administrator for the benefit of the Final Settlement Class, and from which the settlement
28 payments shall be made, and which is intended to be a fund that qualifies under Internal

Revenue Code Section 468.

31. “Release” shall mean the release and discharge of the Class Claims by Plaintiffs and all of the Participating Class Members and the release and discharge of the PAGA Claims by Plaintiffs and all of the Aggrieved Employees.

32. “Released Parties” shall refer to Defendant, its divisions, subsidiaries, partnerships, parents, affiliated corporations, trusts, or other related entities, past and present, and each of them, as well as its and their directors, officers, shareholders, partners, members, representatives, executors, trustees, administrators, beneficiaries, assignees, successors, business managers, agents, contractors, insurers, attorneys, and employees, past and present, and each of them and their marital community.

33. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 70a below.

34. “Service Payment” or “Service Award” means the amount approved by the Court to be paid to the Class Representatives in addition to their Individual Settlement Amount as a Participating Class Member.

35. “Settlement Administration Costs” means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, translating the class notice into Spanish, tax reporting, due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount.

36. “Settlement Administrator” means and refers to Simpluris agreed to by the Parties, that will provide the Notice to the Class Members and distribute the settlement amounts as described in this Agreement.

37. “Settlement Amount” or “Gross Settlement Amount” shall have the meaning ascribed to it in Paragraph 48(a) below.

1 38. “Settlement Class Member” or “Class Member” refers to individual members of
2 the Settlement Class.

3 39. “Settlement Class” and “Settlement Class Members” refers to all persons who
4 are or were previously employed by Defendant in California classified as a non-exempt
5 employee during the Class Period. There also shall be a sub-class of Settlement Class Members
6 comprised of those Settlement Class Members who held the position of “Route Supervisor” and
7 who had been classified as an exempt employee, as alleged in *Calderon* action.

8 40. “Workweeks Worked” for each Settlement Class Member and Aggrieved
9 Employee means any workweek during the Class Period and/or the PAGA Period, as
10 applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed
11 by Defendant as a non-exempt employee or allegedly improperly classified by Defendant as an
12 exempt employee in California and worked at least one shift during the workweek.

13 **B. General Terms**

14 41. On or about October 19, 2020, Plaintiffs Oscar Estrada and Julius Leonard filed a
15 class and PAGA representative action complaint in the Court against Defendant, including
16 allegations of: (1) meal period violations, (2) rest period violations, (3) failure to pay split shift
17 premiums, (4) waiting time penalties, (5) wage statement violations, (6), failure to indemnify all
18 necessary business expenditures (7) unfair competition, and (8) PAGA penalties based on the
19 foregoing Labor Code violations. On or about August 31, 2020, Plaintiff Pablo Calderon filed a
20 class action complaint in the Orange County Superior Court against Defendant, including
21 allegations of: (1) unlawful misclassification of non-exempt employees as exempt employees,
22 (2) meal period violations, (2) rest period violations, (3) failure to pay split shift premiums, (4)
23 waiting time penalties, (5) wage statement violations, (6), failure to indemnify all necessary
24 business expenditures (7) failure to provide one day of rest in seven, and (8) unfair competition.
25 The *Calderon* complaint was subsequently amended to include a claim for PAGA penalties
26 based on the foregoing Labor Code violations. On or about June 30, 2021, Plaintiffs will file a
27 First Amended Consolidated Class and PAGA Representative Action Complaint that will seek
28 to include all non-duplicative claims pled in *Calderon* action and will add Pablo Calderon as a

1 named class representative and remove Julius Leonard as a named class representative.

2 42. Defendant denies Plaintiffs' claims and allegations and contend that the Action is
3 not suitable for class certification and/or representative treatment.

4 43. The Class Representatives believe they can proceed with their representative and
5 class claims, that the Action is meritorious, and that class certification is appropriate.

6 44. The Parties have conducted a thorough investigation into the facts of the Action.
7 This includes conducting extensive exchange of informal discovery, including Defendant's
8 written policies and practices and the production of payroll and timekeeping records for
9 Settlement Class Members and Aggrieved Employees. Class Counsel is both knowledgeable
10 about and has done extensive research with respect to the applicable law and potential defenses
11 to the claims of the Settlement Class Members and Aggrieved Employees. Class Counsel has
12 diligently pursued an investigation of the Class Members' claims against Defendant. Based on
13 the foregoing data and on their own independent investigation and evaluation, Class Counsel is
14 of the opinion that the settlement with Defendant for the consideration and on the terms set forth
15 in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the
16 Settlement Class Members and Aggrieved Employees in light of all known facts and
17 circumstances, including the risk of significant delay and uncertainty associated with litigation,
18 various defenses asserted by Defendant, and numerous potential appellate issues.

19 45. On June 1, 2021, the Parties participated in mediation before Lynn Frank, Esq., a
20 highly experienced class action mediator. After a full-day mediation and the issuance of a
21 mediator's proposal, the Parties reached a settlement.

22 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
23 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and
24 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
25 any statute or law or liability on the claims or allegations in the Action.

26 47. Stipulation for Class Certification and Representative Treatment. For settlement
27 purposes only, Defendant will stipulate that the Settlement Class Members described herein
28 who do not Request Exclusion from the Settlement Class may be conditionally certified as a

1 settlement class and that the Aggrieved Employees are appropriate for representative treatment
2 for purposes of settlement. This stipulation to certification and representative treatment is in no
3 way an admission that class action certification and/or representative treatment is proper and
4 shall not be admissible in this or in any other action except for the sole purposes of enforcing
5 this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties'
6 stipulation to class certification and representative treatment as part of the Settlement shall
7 become null and void *ab initio* and shall have no bearing on and shall not be admissible in
8 connection with the issue of whether or not class certification and/or representative treatment
9 would be appropriate in a non-settlement context. Defendant expressly reserves its rights and
10 declares that it will continue to oppose class certification, representative treatment, and the
11 substantive merits of the case should the Court fail to issue Final Approval. Plaintiffs expressly
12 reserve their rights and declare that they will continue to pursue class certification and
13 representative treatment and a trial should the Court fail to issue Final Approval.

14 **C. Terms of Settlement**

15 48. The financial terms of the Settlement are as follows:

16 (a) Gross Settlement Amount: The Parties agree to settle this Action for Five
17 Hundred Thousand Dollars (\$500,000) ("the Settlement Amount"). The Settlement Amount is
18 the maximum amount that will be paid by Defendant, and includes Individual Settlement
19 Amounts, attorneys' fees of Class Counsel, costs and expenses, the Service Payment to the
20 Class Representatives, all Settlement Administration Costs, and payment to the Labor
21 Workforce Development Agency (LWDA) for PAGA penalties. Defendant shall separately pay
22 the employers' share of applicable payroll taxes.

23 (b) The Settlement is based on Defendant's representation that there are
24 approximately 7,000 Workweeks Worked included in the Class Period. In the event that the
25 actual number of workweeks worked by all Settlement Class Members during this period
26 increases by 10% or more, then Defendant shall increase the QSF on a proportional basis in
27 excess of 10 percent (i.e., if there were an eleven percent (11%) increase in the number of
28 workweeks, then Defendant will increase the QSF by one percent (1%)).

1 (c) Net Settlement Amount: The “Net Settlement Amount” is defined as the
2 Settlement Amount less attorneys’ fees and litigation costs as approved and awarded by the
3 Court, the Service Payment to the Class Representatives as approved and awarded by the Court,
4 the Settlement Administration Costs, as approved and awarded by the Court, and the Fifty
5 Thousand Dollars (\$50,000.00) allocated to payment for PAGA penalties as described in
6 paragraph 42 below. In the event that the Court reduces the attorneys’ fees and litigation costs
7 or, Service Awards, Settlement Administration Costs, or either increases or decreases the
8 amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased
9 accordingly.

10 (d) Individual Settlement Amounts for the Settlement Class: The Settlement
11 Administrator will use the Class Data provided by Defendant to calculate each Participating
12 Class Member’s and Aggrieved Employee’s Individual Settlement Amounts based on the
13 following formula:

14 i. PAGA Amount: \$50,000 of the Gross Settlement Amount has been
15 designated to the PAGA claims. Twenty-five percent (25%) of the \$50,000, or \$12,500, shall
16 be paid out to Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the
17 \$12,500 proportionate to the number of Workweeks Worked by the Aggrieved Employees
18 during the PAGA Period compared to the total number of Workweeks Worked by all Aggrieved
19 Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount
20 for the Released PAGA claims paid one hundred percent (100%) as civil penalties for which no
21 taxes will be withheld and for which a Form 1099 will be issued by the Settlement
22 Administrator.

23 ii. Class Amount: The Net Settlement Amount shall be allocated to each
24 Participating Class Member based on his or her proportionate Workweeks Worked during the
25 Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the
26 numerator which is the Participating Class Member’s total Workweeks Worked during the Class
27 Period, and the denominator of which is the total Workweeks Worked by all Participating Class
28 Members during the Class Period. Workweeks Worked by Route Supervisors will count as 1.5

workweeks. Each Settlement Class Member's respective designation and calculation of total pay periods worked and estimated, pre-tax share of the Net Settlement Amount shall be identified in the Notice. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

(e) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated for tax purposes based on the allegations in the Action as follows: twenty (20%) percent will be paid as wages subject to withholding of all applicable local, state, and federal taxes; and eighty percent (80%) will be paid as interest and as civil penalties (pursuant to, e.g., California Labor Code sections 203, 226) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the civil penalties and interest allocations.

(f) Service Payment to Class Representatives: The amount awarded to the Class Representatives as a Service Payment will be set by the Court in its discretion, not to exceed \$7,500 each, if both Class Representatives do not opt-out of the Settlement as to the Class Claims, and do not take any action, directly or indirectly, to undercut this settlement. Defendant agrees not to oppose this request. The Service Payment to Class Representatives will be paid out of the Gross Settlement Amount. The Class Representatives will be issued IRS Form 1099 in connection with this payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiffs less than the requested amount shall not be a basis for Plaintiffs or Class Counsel to void this Stipulation. Should the Court approve a lesser amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved Employees. In the event of any appeal of the amount of the service awards (if any) approved by the Court, if, after the exhaustion of any such appellate review, additional amounts not awarded to Class

Representatives shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved Employees.

(g) Attorneys' Fees and Costs: Defendant agrees to not oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement Amount, plus reasonable litigation costs not to exceed \$20,000 ("Attorney's Fees and Cost Award"). For purposes of this Settlement, Defendant agrees not to oppose any contention by Class Counsel that attorneys' fees should be based on the common fund theory. The Attorney's Fee and Cost Award shall be paid from the Gross Settlement Amount, and except for this award, Defendant shall have no further obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. Any Court order awarding less than the amount sought by Class Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs (if any) approved by the Court, final funding and administration of the portion of the attorneys' fees and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review, additional amounts not awarded to as attorneys' fees and costs shall be added to the Net Settlement Amount to be distributed to the Participating Class Members and/or Aggrieved Employees. The Settlement Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class Counsel and any other attorney representing or claiming to represent the Class Members shall be the sole responsibility of Class Counsel.

(h) Settlement Administration Costs: The fees and other charges of the Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed \$5,000 subject to Court approval, unless approved by all Parties and the Court.

(i) PAGA Penalties: The Parties agree that \$50,000 is allocated to PAGA Penalties and is to be paid from the Gross Settlement Amount, subject to Court approval. Of this amount,

1 \$37,500 (75%) shall be paid to the LWDA in satisfaction of Plaintiffs' claims for civil penalties
2 under the Private Attorney General Act of 2004 ("PAGA") and \$12,500 (25%) will be included
3 in the Individual Settlement Amounts, payable to the Aggrieved Employees as set forth in
4 Paragraph 48(d).

5 (j) Tax Liability: Class Counsel, Defendant and Defendant's Counsel make no
6 representations as to the tax treatment or legal effect of Settlement Amounts called for
7 hereunder, and Plaintiffs and the Settlement Class Members are not relying on any statement or
8 representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiffs
9 and Final Settlement Class Members understand and agree that they will be solely responsible
10 for the payment of any taxes and penalties assessed on their respective Settlement Amounts
11 described herein. Income tax withholding will also be made pursuant to applicable federal, state
12 and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed
13 at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and
14 consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other
15 applicable tax law, are changed after the date of this Agreement, the processes set forth in this
16 Section may be modified in a manner to bring Defendant into compliance with any such
17 changes.

18 (k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT
19 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH
20 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
21 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF
22 THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
23 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER
24 ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
25 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
26 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
27 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
28 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS

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

49. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendant. Final Settlement Class Members will not have to make a claim in order to receive an Individual Settlement Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to each Final Settlement Class Member. The Settlement Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the check cashing deadline, as set forth herein.

50. Class Counsel and Plaintiffs believe that the Settlement is fair and reasonable, and adequate, and will so represent same to the Court.

D. Release by Plaintiffs and the Final Settlement Class

51. Upon the Effective Date of this Settlement, Plaintiffs and each Participating Class Member, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and

representatives, will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Release Period.

52. Each Participating Class Member will be deemed to have made the foregoing Release as if by manually signing it.

53. Upon the Effective Date of this Settlement, Plaintiffs, the LWDA, and each Aggrieved Employee, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the Released PAGA Claims for the PAGA Release Period.

54. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

55. Plaintiffs and Defendant intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Participating Class Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released Class Claims. The Settlement Class Members shall be so notified in the Notice. This paragraph does not apply to any Settlement Class Member who timely and validly opts out of the Settlement.

56. Plaintiffs and Defendant intend that the Settlement described in this Agreement will release and preclude any further claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and all of the Aggrieved Employees and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the Released PAGA Claims. The Aggrieved Employees and the LWDA shall be so notified in the Notice.

57. Class Representatives, on behalf of themselves and the Participating Settlement Class Members, acknowledge and agree that the claims for unpaid wages and unreimbursed expenses in the Action, misclassification claims, and untimely payment of wages in the Action,

are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to them. Class Representatives, on behalf of themselves and the Participating Settlement Class Members, acknowledge and agree that California Labor Code Section 206.5 is not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.

E. Release by Class Representatives

58. As a material inducement to Defendant to enter into this Settlement Agreement, in addition to the Class Representatives' release of the Released Class Claims and Released PAGA Claims, as discussed in Paragraphs 51 and 53 above, Class Representatives do hereby, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, forever completely release and discharge the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including for back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Stipulation, whether known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon, or relating to Class Representatives' employment with Defendant or the remuneration for or termination of such employment (collectively, the "Class Representatives' Claims").

59. Without limiting the generality of the foregoing, Class Representatives also expressly release all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including but not limited to, negligence, fraud, misrepresentation and violation of

1 California Labor Code section 970, negligent infliction of emotional distress, intentional
2 infliction of emotional distress, defamation, “retaliation” claims and claims for violation of
3 public policy, any claim for improper or unauthorized wage deductions, failure to pay the
4 applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other
5 damages, overtime, and alleged “off the clock” work under federal and state law, including, but
6 not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to
7 California Labor Section 203, damages or penalties pursuant to California Labor Code Section
8 226, meal period and rest break payments and penalties pursuant to California Labor Code
9 Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California
10 Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections
11 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, failure to
12 provide one day of rest in seven pursuant to California Labor Code Sections 551 and 552, unfair
13 competition and unfair business practices pursuant to Business and Professions Code Section
14 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California
15 Labor Code Section 218.6, statutory or common law rights to attorneys’ fees and costs,
16 including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the
17 Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged
18 violation or breach of any other state or federal statute, rule and or regulation; including all
19 applicable Industrial Welfare Commission Wage Orders, and all similar causes of action,
20 including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs
21 or attorneys’ fees in connection with any of the foregoing, negligent infliction of emotional
22 distress, intentional infliction of emotional distress, and defamation; any “wrongful discharge,”
23 “constructive discharge,” and “retaliation” claims; any claims relating to any breach of public
24 policy; any legal restrictions on Defendant’s right to discharge employees; and any federal,
25 state, or other governmental statute, regulation, or ordinance, including, without limitation: (1)
26 Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin
27 discrimination or harassment, including retaliation for reporting discrimination or harassment);
28 (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California

1 Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq.
2 (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 et
3 seq. (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government
4 Code § 12900 et seq. (discrimination or harassment in employment and/or housing, including
5 discrimination or harassment based on race, religious creed, color, national origin, ancestry,
6 disability, marital status, sex (including pregnancy), or age, including retaliation for reporting
7 discrimination or harassment); (7) California Family Rights Act, Cal. Government Code §
8 12945.1 et seq. (family/medical leave); (8) California Labor Code, including Section 1720 et
9 seq., or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race,
10 color, religion, sex, and national origin discrimination or harassment); (10) Executive Order
11 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973
12 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement
13 Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits); (14) the California Civil
14 Code; (15) the California Labor Code; (16) the California Constitution; (17) the National Labor
15 Relations Act; and (18) any other federal, state, or local statute or legislation.

16 60. Class Representatives expressly waive and relinquish all rights and benefits
17 afforded by Section 1542 of the Civil Code of the State of California and do so understanding
18 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil
19 Code of the State of California states:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
21 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT
22 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
23 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
24 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
25 DEBTOR OR RELEASED PARTY.

26 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
27 full and complete release and discharge of all parties, Class Representatives and Class Counsel
28 expressly acknowledge that this Settlement Agreement is intended to include in its effect,

without limitation, all claims that Class Representatives knew of, as well as all claims that they do not know or suspect to exist in their favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Class Representatives' claims.

F. Interim Stay of Proceedings

61. Pending completion of all of the prerequisites necessary to effectuate this Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such as are necessary to effectuate the Settlement, including amending the operative complaint.

G. Notice Process

62. Appointment of Settlement Administrator. The Parties have agreed to the appointment of the Settlement Administrator to perform the duties of a settlement administrator, including mailing the Notice, using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims or opt-out requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Amounts, drafting and mailing the settlement checks to Final Settlement Class Members, issuing W-2 and 1099 Tax Forms, reporting to taxing authorities, due diligence, reporting and remittance obligations, and performing such other tasks as set forth herein or as the Parties mutually agree or that the Court orders.

63. Disputes Regarding Settlement Administration. Any and all disputes relating to administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendant notify the Court that all payments and obligations contemplated by this Settlement Agreement have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court intervention. The Settlement Administrator shall also be responsible for issuing to Plaintiffs, Final Settlement

1 Class Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by
2 law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also
3 be responsible for setting up all necessary tax accounts and forwarding all payroll taxes and
4 penalties to the appropriate government authorities.

5 64. Class Data. Within fifteen (15) days after entry of the Preliminary Approval
6 Order, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement
7 Administrator will run a check of the Class Members' addresses against those on file with the
8 U.S. Postal Service's National Change of Address List. The Class Data provided to the
9 Settlement Administrator will not be provided to Class Counsel and it will remain confidential,
10 it shall be used solely to administer the Settlement, and it will not be used or disclosed to
11 anyone, except as required by applicable tax authorities, pursuant to Defendant's express
12 written consent, or by order of the Court. The Claims Administrator will be required to sign
13 and provide to Defendant a Certification Regarding Confidential Discovery Materials and to be
14 bound by a Stipulated Protective Order as entered by the Court.

15 65. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
16 Administrator to the Settlement Class Members, by first class mail, in English and Spanish,
17 within ten (10) calendar days following the Settlement Administrator's receipt of the Class
18 Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain
19 forwarding addresses of Settlement Class Members if any envelopes are returned.

20 66. Returned Notices. The Settlement Administrator will take steps to ensure that
21 the Notice is received by all Settlement Class Members, including utilization of the National
22 Change of Address Database maintained by the United States Postal Service to review the
23 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any
24 Settlement Class Member for whom an updated address is located within ten (10) calendar days
25 following both the Settlement Administrator learning of the failed mailing and its receipt of the
26 updated address. The Notice shall be identical to the original Notice, except that it shall notify
27 the Settlement Class Member that the exclusion (opt-out) request or objection must be returned
28

1 by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the
2 Notice.

3 67. Presumption Regarding Receipt of Notice. It will be conclusively presumed that
4 if an envelope has not been returned within thirty (30) days of the mailing that the Settlement
5 Class Member received the Notice.

6 68. Disputes Regarding Class Data. Settlement Class Members are deemed to
7 participate in the Settlement, unless they opt-out. The Notice will inform Settlement Class
8 Members of his/her estimated Individual Settlement Amount and the number of Weeks Worked
9 during the Class Period and during the PAGA Period. Settlement Class Members may dispute
10 their Weeks Worked if they feel they were employed more workweeks in the Class Period in
11 California than Defendant's records show by timely submitting evidence to the Settlement
12 Administrator. Defendant's records will be presumed determinative absent reliable evidence to
13 rebut Defendant's records, but the Settlement Administrator will evaluate the evidence
14 submitted by the Settlement Class Member and provide the evidence submitted to Class
15 Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to
16 determine the Class Member's actual number of Workweeks Worked and estimated Individual
17 Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to
18 submit the dispute to the Settlement Administrator to render a final decision. Settlement Class
19 Members will have until the Notice Response Deadline to dispute Workweeks Worked, object
20 or opt out, unless extended by the Court. In the event that the Settlement Administrator
21 increases the number of Workweeks Worked for any Settlement Class Member, then the
22 Settlement Administrator will recalculate the Participating Class Members' Individual
23 Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross
24 Settlement Amount.

25 69. Declaration of Due Diligence. The Settlement Administrator shall provide
26 counsel for the Parties, at least twenty-five (25) days prior to the final approval hearing, a
27 declaration of due diligence and proof of mailing with regard to the mailing of the Notice.
28

1 70. Settlement Class Members' Rights. Each Settlement Class Member will be fully
2 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
3 Class Claims, and the ability to opt-out or request exclusion from the Class Claims provisions of
4 the Settlement. The Notice will inform the Settlement Class Members of the Court-established
5 deadlines for filing objections or requesting exclusion from the Class Claims provisions of the
6 Settlement in accordance with the following guidelines:

7 (a) Requests for Exclusion from Participating Settlement Class. Any
8 Settlement Class Member, other than Plaintiff, may request to be excluded from the
9 Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement
10 Administrator, postmarked on or before the Notice Response Deadline. The Request for
11 Exclusion should state:

12 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS
13 IN THE ESTRADA ET AL. V. HHM FACILITY MANAGEMENT
14 LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE
15 EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT
16 RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE
 CLASS CLAIMS IN THIS LAWSUIT.

17 Any Request for Exclusion must include the full name, address, telephone number, last
18 four digits of the social security number or date of birth, and signature of the Settlement Class
19 Member requesting exclusion. The Request for Exclusion must be returned by mail to the
20 Settlement Administrator at the specified address. Any such Request must be made in
21 accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only
22 if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing.
23 Any Settlement Class Member who timely requests exclusion in compliance with these
24 requirements: (i) will not have any rights under this Agreement with respect to the Class
25 Claims, including the right to object, appeal or comment on the Settlement; (ii) will not be
26 entitled to receive any payments under this Agreement with respect to Class Claims; and (iii)
27 will not be bound by this Agreement, or the Judgment with respect to the Class Claims.
28

1 (b) Binding Effect on Final Settlement Class Members. Except for those
2 Settlement Class Members who exclude themselves in compliance with the procedures set forth
3 above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members
4 for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
5 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
6 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
7 reasonableness, and adequacy of the Settlement.

8 (c) Objections to Settlement of Class Claims. Any Settlement Class
9 Member, other than Plaintiffs, may object to the terms of this Agreement with respect to the
10 Class Claims and may appear at the Final Approval Hearing and object whether or not they
11 have filed a written objection as outlined herein. To object, a Settlement Class Member shall
12 inform the Settlement Administrator, in writing, of his or her objection, which must be
13 postmarked by the Notice Response Deadline at the address set forth in the Notice. Such
14 objection shall include the full name, address, telephone number, dates of employment with
15 Defendant of the Objecting Settlement Class Member, the case name and number, the basis for
16 the objection, including any legal support and each specific reason in support of the objection,
17 as well as any documentation or evidence in support thereof, and, if the Objecting Settlement
18 Class Member is represented by counsel, the name and address of his or her counsel. If any
19 Objecting Settlement Class Member wishes to speak at the Final Approval Hearing with respect
20 to the Class Claims, that Objecting Settlement Class Member's written submission should
21 include a request to be heard, and the Court will determine whether Objecting Settlement Class
22 Members will be permitted to speak. The Settlement Administrator shall provide objections, if
23 any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Settlement
24 Administrator shall attach the same to its declaration of due diligence it files with the Court
25 prior to the Final Approval Hearing. Any Participating Class Member who files an objection
26 remains eligible to receive monetary compensation from the Settlement. Plaintiffs and
27 Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class
28 Member and/or his or her counsel related to any objections to the Settlement. Submitting an

1 objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is
2 preserved by becoming a party of record by timely and properly intervening or filing a motion
3 to vacate the judgment under Code of Civil Procedure § 663. Settlement Class Members and
4 Aggrieved Employees may not object to or opt-out of the Settlement with respect to the PAGA
5 Claims.

6 (d) Failure to Object. Any Settlement Class Member who desires to object
7 with respect to the Class Claims, but fails to timely submit a written objection waives any right
8 to object, will be foreclosed from making any objection to this Settlement. Any Settlement
9 Class Member who does not timely and properly become a party of record by intervening or
10 filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment,
11 including all rights to any post-judgment proceeding and appellate proceeding, such as a motion
12 to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure
13 section 473, and extraordinary writs.

14 (e) Responses to Objections. Counsel for the Parties may file a response to
15 any objections submitted by Objecting Settlement Class Members at least five (5) court days
16 before the date of the Final Approval Hearing.

17 71. Settlement Class Members will have until the Notice Response Deadline to
18 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
19 Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what
20 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
21 request of Class Counsel or Defense Counsel.

22 72. Funding of the Settlement Amount. Defendant shall make a one-time deposit
23 into the QSF of the Settlement Amount, as described in Paragraph 44(a) that is necessary to
24 make all payments required under this Settlement, within ten (10) days after the Effective Date,
25 plus Defendant shall separately pay its share of employer payroll taxes as calculated and
26 directed by the Settlement Administrator.

27 73. Distribution of Funds. No later than ten (10) calendar days after deposit of the
28 payment into the QSF, the Settlement Administrator will mail the payments to the Participating

1 Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service
2 Payment to the Class Representatives, the payment to the LWDA for PAGA penalties, and will
3 pay itself the Settlement Administration Costs.

4 74. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
5 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
6 checks. If any Final Settlement Class Member's check is not cashed within that period, the
7 check will be void and a stop-payment will be issued. All unclaimed funds shall be donated to
8 Bet Tzedek Legal Services pursuant to the terms of Code of Civil Procedure section 384(b), and
9 the Settlement Administrator shall issue the unclaimed funds to the *cy pres* within
10 approximately 215 days of the mailing of the settlement checks. The release will be binding
11 upon all Final Settlement Class Members who do not cash their checks within the 180-day
12 period. In the event that any settlement check is returned to the Settlement Administrator within
13 180 days of mailing, the Settlement Administrator will, within five (5) business days of receipt
14 of the returned settlement check, perform a skip trace to locate the individual. If a new address
15 is located by these means, the Administrator will have ten (10) business days to re-issue the
16 check and will notify Defense Counsel and Class Counsel that a re-issued check has been sent.
17 Neither Defendant, Defense Counsel, Class Counsel, Plaintiffs, nor the Settlement
18 Administrator will have any liability for lost or stolen settlement checks, forged signatures on
19 settlement checks, or unauthorized negotiation of settlement checks. Without limiting the
20 foregoing, in the event a Final Settlement Class Member notifies the Settlement Administrator
21 that he or she believes that a settlement check has been lost or stolen, the Settlement
22 Administrator shall immediately stop payment on such check. If the check in question has not
23 been negotiated prior to the stop payment order, the Settlement Administrator will issue a
24 replacement check.

25 75. No person shall have any claim against Defendant (or its designee), Defendant's
26 Counsel, Plaintiffs, Class Counsel, or the Settlement Administrator based on mailings,
27 distributions, payments or reports made in accordance with or pursuant to this Agreement. This
28 provision does not, however, prevent a Party from seeking enforcement of this Agreement.

1 76. Without prejudice to any other remedies, the Settlement Administrator shall
2 agree to be responsible for any breach of its obligations (whether committed by the Settlement
3 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless
4 from and against all liabilities, claims, causes of action, costs and expenses (including legal fees
5 and expenses) arising out of any breach committed by the Settlement Administrator or its
6 agents.

7 **H. Duties of the Parties Prior to the Court's Approval**

8 77. Upon completion of confirmatory discovery, Plaintiffs will move the Court for
9 Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
10 accomplishing the following:

11 (a) Scheduling the Final Approval Hearing on the issue of whether this
12 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
13 and a hearing on fees, costs and the Service Payment;

14 (b) Approving as to form and content the proposed Notice;

15 (c) Directing the mailing of the Notice by first class mail to the Settlement
16 Class Members;

17 (d) Preliminarily approving this Settlement; and

18 (e) Preliminarily certifying the class for purposes of this Settlement.

19 78. Reallocation of Settlement Proceeds. In the event the Court fails, on its first
20 hearing, to approve this Agreement because the amount of the PAGA penalties is not adequate,
21 then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within
22 this Agreement, in order to try to achieve Final Approval of the Agreement upon any
23 subsequent Court hearings.

24 **I. Duties of the Parties Following Court's Final Approval**

25 79. In connection with the Final Approval Hearing provided for in this Settlement
26 Agreement, Class Counsel shall submit a proposed Final Approval Order:

27 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
28 adequate, and directing consummation of its terms and provisions;

1 (b) Approving Class Counsel's application for an award of attorneys' fees and
2 reimbursement of litigation costs and expenses, the Service Payment to the Class
3 Representative, and the payment to the Settlement Administrator for costs of administering the
4 settlement; and

5 (c) Entering judgment approving settlement, thereby permanently barring all
6 Participating Class Members from prosecuting any Released Class Claims against any of the
7 Released Parties and permanently barring all Aggrieved Employees and the LWDA from
8 prosecuting any Released PAGA Claims against any of the Released Parties.

9 **J. Voiding the Agreement**

10 80. If the Court fails or refuses to issue the Final Approval Order or fails to approve
11 any material condition of this Settlement Agreement which effects a fundamental change of the
12 Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to
13 all Parties herein at the option of either Party.

14 81. If ten percent (10%) or more of the Settlement Class Members timely submit a
15 Request for Exclusion, Defendant shall have the option of terminating or modifying this
16 Agreement without prejudice to its pre-settlement positions and defenses in the Action. If
17 Defendant exercises such option, under this paragraph it shall be relieved of any obligation to
18 pay the Settlement Amount or any other obligations from the Settlement by giving notice to
19 Plaintiffs' Counsel and the Settlement Administrator within ten (10) days of the Notice
20 Response Deadline. If Defendant exercises its option under this paragraph, Defendant shall be
21 solely responsible for all Settlement Administration Costs incurred.

22 82. If the Settlement is voided or fails for any reason, Plaintiffs and Defendant will
23 have no further obligations under the Settlement, including any obligation by Defendant to pay
24 the Settlement Amount, or any amounts that otherwise would have been owed under this
25 Settlement.

26 83. If the Settlement is voided or fails for any reason, any costs incurred by the
27 Settlement Administrator shall be borne equally by Defendant and Plaintiffs, unless otherwise
28 specified in this Agreement.

1 **K. Other Terms**

2 84. Full and Complete Defense. This Agreement may be pleaded by any Released
3 Party as a full and complete defense to, and may be used as the basis for an injunction against,
4 any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted,
5 asserting any Released Claim.

6 85. Waiver. The waiver by one Party of any breach of this Agreement by another
7 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

8 86. No Publicity. Communications regarding this Settlement prior to the Final
9 Approval Date shall be limited to Court-Approved Notices in the Action. After the Final
10 Approval Date, Class Counsel and the Class Representatives agree that they will not make any
11 direct or indirect comment or publication of the Settlement or of Defendant in terms of
12 affirmative or responsive media statements/comments, press releases or conferences, website
13 postings or content, social media postings or content, other Internet postings or content,
14 subscribed email messages, newsletters, disseminated updates, mass mailings, or any other
15 comment or publication to the press, media, or public at large. Nothing herein shall be
16 construed to prevent Class Counsel from the public filing of motions or other case materials in
17 the Action related to seeking and obtaining Court approval of this Settlement and the related
18 awards of attorneys' fees and costs, or to communications with Settlement Class Members or
19 their representatives about this Settlement, including through the posting of Court-filed
20 documents on Class Counsel's websites for access solely by the Settlement Class Members, or
21 to prevent the Parties or their representatives from communicating with financial or legal
22 advisors regarding the Settlement. In response to any media inquiry, Class Counsel may state
23 only that the Action has been settled on terms mutually agreeable to the Parties.

24 87. No Defamatory Statements. Plaintiffs will not make, or encourage anyone else
25 to make, any defamatory or maliciously false statements or remarks about Defendant, any of its
26 employees, and/or any of its services; this restriction includes, but is not limited to, Plaintiffs
27 not making any such statements or remarks on Yelp, Glassdoor, LinkedIn, Facebook, other
28 social media, and other online forums.

1 88. Parties' Authority. The signatories hereto represent that they are fully authorized
2 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
3 hereof.

4 89. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
5 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
6 such documents and to take such other action as may reasonably be necessary to implement the
7 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their
8 best efforts, including all efforts contemplated by this Settlement Agreement and any other
9 efforts that may become necessary by order of the Court, or otherwise, to effectuate this
10 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of
11 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
12 Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary
13 and final approval of the settlement, and the final entry of judgment.

14 90. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
15 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
16 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
17 cause of action or rights released and discharged by this Settlement Agreement.

18 91. No Admission. Defendant denies any and all liability to Plaintiffs and/or any
19 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
20 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
21 compromise the matters at issue in the Complaint to avoid further substantial expense and the
22 inconvenience and distraction of protracted and burdensome litigation. Defendant also has
23 taken into account the uncertainty and risks inherent in litigation, and without conceding any
24 infirmity in the defenses that they have asserted or could assert against Plaintiffs, have
25 determined that it is desirable and beneficial that Plaintiffs' claims be settled in the manner and
26 upon the terms and conditions set forth in this Agreement.

27 92. Inadmissibility of Agreement. Whether or not the Court issues the Final
28 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,

is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and it, along with all related documents such as the notices, and motions for preliminary and final approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for class certification as part of this Settlement Agreement is for settlement purposes only and if, for any reason the settlement is not approved, the stipulation will be of no force or effect.

93. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

To the Settlement Class Members and Aggrieved Employees:

Mehrdad Bokhour <i>mehrdad@bokhourlaw.com</i> 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067 Tel: (310) 975-1493; Fax: (310) 675-0861	Joshua Falakassa <i>josh@falakassalaw.com</i> 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067 Tel: (818) 456-6168; Fax: (888) 505-0868
Marcus J. Bradley <i>mbradley@bradleygrombacher.com</i> 31365 Oak Crest Drive, Suite 240 Westlake Village, California 91361 Tel: (805) 270-7100; Fax: (805) 27-7589	

To Defendant:

David A. Wimmer <i>dwimmer@swerdlowlaw.com</i> Lori M. Yankelevits <i>lyankelevits@swerdlowlaw.com</i> 9401 Wilshire Blvd, Suite 828
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Beverly Hills, California 90212
Tel: (310) 288-3980; Fax: (310) 733-1727

94. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or her or its counsel participated in the drafting of this Settlement Agreement. Plaintiffs and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

95. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

96. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

97. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and Plaintiffs and Defendant agree to seek the help of the mediator identified in this Agreement to resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding instituted by any person or entity other than Plaintiffs or Defendant.

98. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure

1 Section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
2 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents and obligations
3 of this Agreement.

4 99. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b),
5 this Agreement is intended by the Parties to be, and shall be, enforceable, binding and
6 admissible in a court of law.

7 100. Choice of Law. This Settlement Agreement shall be governed by and construed,
8 enforced and administered in accordance with the laws of the State of California, without regard
9 to its conflicts-of-law rules.

10 101. Integration Clause. This Settlement Agreement contains the entire agreement
11 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
12 or contemporaneous agreements, understandings, representations, and statements, whether oral
13 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
14 hereunder may be waived except in writing.

15 102. Binding On Assigns. This Settlement Agreement shall be binding upon and inure
16 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
17 successors, and assigns.

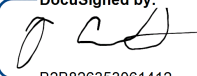
18 103. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
19 because the members of the Settlement Class are numerous, it is impossible or impractical to
20 have each Final Class Member execute this Settlement Agreement. The Notice will advise all
21 Settlement Class Members of the binding nature of the releases provided herein and such shall
22 have the same force and effect as if this Settlement Agreement were executed by each Final
23 Settlement Class Member.

24 104. Counterparts. This Settlement Agreement may be executed in counterparts, and
25 when each Party has signed and delivered at least one such counterpart, each counterpart shall
26 be deemed an original, and, when taken together with other signed counterparts, shall constitute
27 one fully signed Settlement Agreement, which shall be binding upon and effective as to all
28 Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES:

Dated: August __, 2021
8/19/2021

CLASS REPRESENTATIVES:

DocuSigned by:

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Oscar Estrada

Pablo Calderon

Dated: August __, 2021

DEFENDANT:

HHM FACILITY MANAGEMENT, LLC

By _____
Title _____

APPROVAL AND EXECUTION BY PARTIES:

Dated: August____, 2021

CLASS REPRESENTATIVES:

Oscar Estrada

Pablo Calderon

Aug 18, 2021
Dated: August____, 2021

DEFENDANT:

HHM FACILITY MANAGEMENT, LLC

Rodney Minner

By____Rodney Minner_____
Title: Chief Executive Officer

APPROVED AS TO FORM:

CLASS COUNSEL

Dated: August __, 2021
8/18/2021

FALAKASSA LAW, P.C.

DocuSigned by:
Joshua Falakassa
15A628B2C5A149C...
Joshua Falakassa
Attorneys for Plaintiffs

Dated: August __, 2021
8/19/2021

BOKHOUR LAW GROUP, P.C.

DocuSigned by:
Mehrdad Bokhour
D8D3643F271940F...
Mehrdad Bokhour
Attorneys for Plaintiffs

Dated: August __, 2021
8/18/2021

BRADLEY/GROMBACHER

DocuSigned by:
Marcus J. Bradley
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Marcus Bradley
Attorneys for Plaintiffs

Dated: July __, 2021

DEFENDANT'S COUNSEL:

**SWERDLOW FLORENCE SANCHEZ SWERDLOW
& WIMMER**

David A. Wimmer
Lori M. Yankelevits
Attorneys for Defendant, HHM Facility Management,
LLC

1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL**

3 Dated: August __, 2021

4 **FALAKASSA LAW, P.C.**

5
6 Joshua Falakassa
7 Attorneys for Plaintiffs

8 Dated: August __, 2021

9 **BOKHOUR LAW GROUP, P.C.**

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11 Mehrdad Bokhour
12 Attorneys for Plaintiffs

13 Dated: August __, 2021

14 **BRADLEY/GROMBACHER**

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16 Marcus Bradley
17 Attorneys for Plaintiffs

18 Dated: August 18, 2021

19 **DEFENDANT'S COUNSEL:**

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APPROVAL AND EXECUTION BY PARTIES:

Dated: August¹⁹, 2021

CLASS REPRESENTATIVES:

Oscar Estrada

DocuSigned by:
Pablo Calderon
74E119253C67430...
Pablo Calderon

Dated: August__, 2021

DEFENDANT:

HHM FACILITY MANAGEMENT, LLC

By _____
Title _____

1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL**

3 Dated: August __, 2021

FALAKASSA LAW, P.C.

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5
6 Joshua Falakassa
7 Attorneys for Plaintiffs

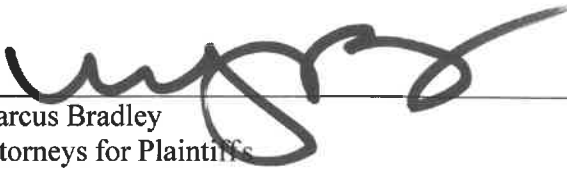
8 Dated: August __, 2021

BOKHOUR LAW GROUP, P.C.

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10
11 Mehrdad Bokhour
12 Attorneys for Plaintiffs

13 Dated: August **23** 2021

BRADLEY/GROMBACHER

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17 Marcus Bradley
18 Attorneys for Plaintiffs

19 Dated: July __, 2021

DEFENDANT'S COUNSEL:

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& WIMMER**

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22 David A. Wimmer
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Signature: 
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