

Private Attorneys General Act (Cal. Lab. Code § 2698, *Et Seq.*) Settlement Agreement

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the Action and PAGA Released Claims shall be settled and resolved subject to the following terms and conditions set forth in this Private Attorneys General Act (Cal. Lab. Code § 2698, *et seq.*) Settlement Agreement (“Settlement Agreement”), entered by and between Plaintiff Jacqueline Rosas (“Plaintiff”), for herself and on behalf of the State of California and other Aggrieved Employees pursuant to the California Private Attorneys General Act, and Defendant DialMED, Inc. (“Defendant” or “DialMED”) (collectively, the “Parties”).

This Settlement Agreement shall be effective upon the date of the Court order approving the settlement (the “Effective Date”); however, the releases described below will not be effective until (1) the settlement is approved and (2) Defendant has paid all funds due under the terms of this Settlement.

I. DEFINITIONS

Unless otherwise defined herein, the following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the matter entitled JACQUELINE ROSAS, individually, and on behalf of all others similarly situated, Plaintiff, v. DIALMED, INC., a California corporation; and DOES 1 through 10 inclusive, Defendants, Los Angeles County Superior Court Case No. 20STCV44300.

2. “Aggrieved Employees” mean all current and former hourly-paid or non-exempt employees who worked as caregivers for DialMED in the State of California during the PAGA Period, i.e., from November 17, 2019 through the date on which the Court grants approval of the settlement, which is estimated to consist of approximately 86 individuals.

3. “DialMED” means DialMED, Inc.

4. “Complaint” means the claims and allegations set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency dated November 15, 2020 (“LWDA Letter”) and the Complaint filed on November 17, 2020, the First Amended Complaint filed on February 1, 2021, and the Second Amended Complaint filed on February 25, 2021 in the Action.

5. “Court” or “Los Angeles County Superior Court” means the Superior Court of California for the County of Los Angeles.

6. “Defense Counsel” or “Counsel for Defendant” is: Robert E. King, Esq. of Legally Nanny®, 37 Trailwood, Irvine, California 92620 and Joel Van Parys, Esq. of CDF Labor Law LLP, 900 University Avenue, Suite 200, Sacramento, California 95825.

7. “Employee PAGA Portion” is the amount to be distributed to the Aggrieved Employees, which shall consist of 25% of the PAGA Penalties Amount, as provided in Section III.3 herein.

8. “Employee Payments” refers to the PAGA Penalty Payments that will be distributed to Aggrieved Employees, as provided in Section III.3 herein.

9. “Gross Settlement Amount” is the sum of One Hundred and Forty Thousand Dollars and Zero Cents (\$140,000.00), which represents the total amount payable under this Settlement Agreement by DialMED, and includes the Employee PAGA Portion payable to Aggrieved Employees, LWDA Payment payable to the LWDA, Court-awarded Attorneys’ Fees (not to exceed \$46,620.00) to Plaintiff’s Counsel, Court-awarded Litigation Costs (not to exceed \$15,000.00) to Plaintiff’s Counsel, Court-awarded General Release Fee (not to exceed \$7,500.00) to Plaintiff, and a Court-awarded payment to the Settlement Administrator for Settlement Administration Costs (not to exceed \$5,000.00).

10. “LWDA” means the California Labor and Workforce Development Agency.

11. “Plaintiff’s Counsel” means Seung Yang, Esq., Allen Feghali, Esq., and Brett M. Gunther, Esq. of Moon & Yang, APC, 1055 W. Seventh St., Suite 1880, Los Angeles, California 90017.

12. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts are subtracted from the Gross Settlement Amount: (a) Attorneys’ Fees to Plaintiff’s Counsel; (b) Litigation Costs to Plaintiff’s Counsel; (c) General Release Fee to Plaintiff; and (d) Settlement Administration Costs to Settlement Administrator.

13. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

14. “LWDA Payment” means the amount to be paid to the LWDA, which is seventy-five percent (75%) of the Other PAGA Penalties Amount as set forth in Section III.3 herein.

15. “PAGA Period” means the time period from November 17, 2019 through the date on which the Court grants approval of the settlement.

16. “PAGA Released Claims” mean any and all claims for civil penalties that could have been assessed upon and collected from the Released Parties under PAGA, based on the factual allegations in the Complaint, including, but not limited to, purported violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226(e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, 2698, 2699(a), 2699(f)(2), 2699(g)(1), and 2802, arising during the PAGA Period, from the alleged (1) failure to pay minimum and regular rate wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to

authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices.

17. “Released Parties” mean DialMED and its past, present, and future owners, officers, directors, employees, board members, shareholders, attorneys, insurers, reinsurers, customers, partners, investors, members, representatives, predecessors, parent companies, subsidiaries, affiliates, divisions, successors, agents and principals, and their heirs, estates, executors, administrators, servants, insurers, attorneys, and assigns.

18. “Settlement Administrator” means Phoenix Settlement Administrators, Inc., a third-party administrator who shall administer the settlement, subject to approval by the Court, in accordance with this Settlement Agreement, and whose costs and expenses to administer the settlement are currently estimated not to exceed \$5,000.00(“Settlement Administration Costs”).

II. RECITALS

1. On November 15, 2020, Plaintiff provided written notice to the LWDA and DialMED asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226(e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, 2698. 2699(a), 2699(f)(2), 2699(g)(1), and 2802.

2. On November 17, 2020 Plaintiff filed a Complaint in the Superior Court of California, County of Los Angeles, Case No. 20STCV44300, entitled JACQUELINE ROSAS, individually, and on behalf of all others similarly situated, Plaintiff, v. DIALMED, INC., a California corporation; and DOES 1 through 10 inclusive, Defendants, alleging violations of the Labor Code and Unfair Competition Law for: (1) failure to pay minimum and regular rate wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. On February 1, 2021, Plaintiff filed a First Amended Complaint to add a cause of action for civil penalties under PAGA. On February 25, 2021, Plaintiff then requested and obtained dismissal of the class and individual claims and filed a Second Amended Complaint alleging a single cause of action for civil penalties under PAGA. Defendant denies Plaintiff’s allegations and claims.

3. On April 12, 2021, the Parties participated in a day-long mediation with mediator Lisa Klerman, Esq. In preparation for the mediation, Plaintiff’s counsel requested and Defendant’s counsel provided sample time and payroll data for the purported class, personnel and employment documents, and company financial information. With Ms. Klerman’s assistance, the Parties agreed to fully and finally resolve the Action and the PAGA Released Claims as to Plaintiff, the State of California, and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement Agreement nor action taken in implementation thereof shall be construed to be an admission or concession by Plaintiff that her claims do not have merit or by DialMED of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and DialMED specifically disclaims any such liability or wrongdoing. Nor will any of the foregoing be used in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any court proceeding that has as its purpose the interpretation, implementation, or enforcement of the settlement or any orders or judgments of the Court entered into in connection therewith. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related Court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Gross Settlement Amount.** DialMED shall pay \$140,000.00 as the Gross Settlement Amount. DialMED will not pay more than the Gross Settlement Amount. However, if the number of pay periods is 4,026 or more (which is 10% more than the 3,660 pay periods estimated by Defendant) as of the end of the PAGA Period, there will be a pro rata adjustment to the Gross Settlement Amount for any number of work weeks above 4,026 ("Escalator Clause"). In the event that the escalator clause is triggered, the Parties shall cooperate to obtain an amended judgment which reflects the increased Gross Settlement Amount.

3. **Net Settlement Amount.** The Parties agree that the Net Settlement Amount shall be distributed to the LWDA and Aggrieved Employees as follows: Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the Aggrieved Employees on a *pro rata* basis, based on their respective number of pay periods worked for DialMED during the PAGA Period. Payments to Aggrieved Employees of their share of the Other PAGA Penalties Amount shall be referred to as "PAGA Penalty Payment(s)." Each Aggrieved Employee will be paid a non-wage check for the PAGA Penalty Payment, and will receive an IRS Form 1099 for said payment.

4. **Attorneys' Fees Payment and Litigation Costs Payment.** DialMED will not oppose Plaintiff's request for an award of attorneys' fees in the amount up to \$46,620.00 ("Attorneys' Fees") and litigation costs and expenses in the amount up to \$15,000.00 incurred in prosecuting this Action ("Litigation Costs"), to Plaintiff's Counsel. In the event the Court approves a payment of less than \$46,620.00 for Attorneys' Fees and/or less than \$15,000.00 for Litigation Costs to Plaintiff's Counsel, the difference will be a part of the Net Settlement Amount. The Attorneys' Fees and Litigation Costs payments will be reported on an IRS Form 1099 issued to Plaintiff's Counsel.

5. **General Release Fee.** DialMED will not oppose Plaintiff's request for payment in the amount up to \$7,500.00 as a general release fee in connection with the release and waivers provided by Plaintiff, in her individual capacity ("General Release Fee"). In the event the Court approves a payment of less than \$7,500.00 as a General Release Fee award to Plaintiff, the difference will be a part of the Net Settlement Amount. The General Release Fee will be reported on an IRS Form 1099 issued to Plaintiff.

6. **Settlement Administration Costs.** DialMED will not oppose Plaintiff's request for payment in the amount up to \$5,000.00 to the Settlement Administrator for administering the settlement. In the event the Court approves a payment of less than \$5,000.00 for Settlement Administration Costs, the difference will be a part of the Net Settlement Amount. Settlement Administration Costs will be reported on an IRS Form 1099 issued to the Settlement Administrator.

7. **Plaintiff's Release of Claims and Waiver of California Civil Code section 1542.** In consideration of payment under the settlement, and upon the Effective Date and payment of all funds due under this Settlement, Plaintiff shall be deemed to release the Released Parties from any and all PAGA Released Claims and any other claims that she may have against the Released Parties, including and not limited to, all complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including attorneys' fees and costs actually incurred, other than as otherwise provided herein) of any nature whatsoever, known or unknown, suspected or unsuspected, including, but not limited to, any claim for damages related to Plaintiff's employment with Defendant, the separation of her employment, rights arising out of alleged violations of any contracts, express or implied, any covenant of good faith and fair dealing, express or implied, or any tort including defamation, any claim of wrongful termination, retaliation, or wage and hour violations, or any legal restrictions of Defendant's right to terminate employees, or any federal, state or other governmental statute, regulation or ordinance, including, without limitation: (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Government Code; (4) section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California Constitution; and (8) the California Labor Code, which Plaintiff now has, owns or holds, or claims to have, own or hold, or which Plaintiff at any time heretofore had, owned or held, or claimed to have owned or held against any of the Released Parties relating to any conduct occurring prior to and including the date of execution of this Settlement Agreement (collectively, "Plaintiff's Released Claims"). Plaintiff represents that she is not aware of any claims she may have against the Released Parties other than the PAGA Released Claims. As a material inducement for DialMED to enter into this settlement, Plaintiff waives any and all rights and benefits conferred by the provisions of section 1542 of the California Civil Code and any similar law of any state or territory of the United States or other jurisdiction. Section 1542 of the California Civil Code provides as follows:

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.

Plaintiff understands and acknowledges that this Settlement Agreement is meant to include, to the fullest extent, all PAGA Released Claims and other claims which Plaintiff does not know or suspect to exist in her favor against the Released Parties.

8. **ADEA/OWBPA Release.**

Plaintiff understands and agrees that this Settlement Agreement constitutes a knowing and voluntary waiver and release of Plaintiff's rights and claims under the Age Discrimination in Employment Act ("ADEA") and pursuant to the Older Workers Benefit Protection Act ("OWBPA"). Plaintiff acknowledges that the consideration for this waiver is in addition to any other payment to which Plaintiff may be entitled. Plaintiff further understands and agrees that this waiver does not include any rights or claims that may arise after the Parties execute this Settlement Agreement.

Plaintiff acknowledges that this Settlement Agreement is written in a manner designed to be clearly understood by Plaintiff, and that Plaintiff has read it carefully and understands its terms. Plaintiff acknowledges that Plaintiff has been advised and is aware of Plaintiff's right to consult with an attorney of Plaintiff's choice prior to signing this Settlement Agreement. Plaintiff further acknowledges that she is aware that she has twenty-one (21) days during which to consider the provisions of this ADEA/OWBPA release, although she may sign and return it sooner.

Plaintiff acknowledges that she has the right to revoke Section III.8 of this Settlement Agreement pertaining to the ADEA/OWBPA release for a period of seven (7) days after signing it. Accordingly, Section III.8 of this Settlement Agreement shall not become effective or enforceable until the eighth day following Plaintiff's execution of this Settlement Agreement.

Plaintiff expressly acknowledges and agrees, however, that Plaintiff has no right to revoke any other portion of this Settlement Agreement pertaining to any and all claims which do not arise under ADEA or OWBPA.

Defendants and Plaintiff allocate \$500.00 of the General Release Fee as consideration for the release of any ADEA or OWBPA claim. Accordingly, if Defendant pays Plaintiff the full amount of the General Release Fee and Plaintiff revokes Plaintiff's release of any ADEA or OWBPA claim pursuant to Section III.8 of this Settlement Agreement, Plaintiff will owe and shall repay Defendant \$500.00 within seven days of revoking Plaintiff's release of any ADEA or OWBPA claim. However, Plaintiff shall be bound by all the promises Plaintiff has made herein except for a release of any ADEA or OWBPA claim.

To revoke Section III.8 of this Settlement Agreement, Plaintiff must provide a written notice of revocation to Defense Counsel within seven days of signing this Settlement Agreement.

9. **PAGA Released Claims.** Upon the Effective Date and payment of all funds due under this Settlement, Plaintiff, Aggrieved Employees, and the State of California will be forever barred from pursuing any and all PAGA Released Claims defined in Section I.16 herein. This release of claims only covers those civil penalties which are recoverable under PAGA, and does

not otherwise cover individual, underlying claims or causes of action that Aggrieved Employees may have under the law against Released Parties for violations of the California Labor Code.

10. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that she has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

Plaintiff acknowledges that she has read this Settlement Agreement, that she fully understands her rights, privileges, and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that she has had the opportunity to consult with her attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

11. **Limited Disclosure and No Publicity.** Except as provided below, to the extent necessary to effectuate the settlement or as required by the PAGA statute, a court of law, or legal process, neither Plaintiff nor Plaintiff's Counsel will publicize the terms of this Settlement Agreement or issue a press release, hold a press conference, publish information about the settlement on any website or through any social media, or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court.

12. **Filing of Joint Stipulation of Settlement by Plaintiff's Counsel.** Plaintiff's Counsel shall be responsible for preparing the Joint Stipulation for Approval of the Settlement ("Stipulation") and providing Defendant's Counsel with sufficient opportunity to propose revision to the Stipulation prior to filing. Plaintiff's Counsel will file the Stipulation, which is mutually agreed to by the Parties, as soon as practicable. Plaintiff's Counsel will serve the Stipulation on Defendant's Counsel and submit it to the LWDA. Pursuant to California Labor Code section 2698, *et seq.*, Plaintiff's Counsel shall undertake all required submissions and disclosures to the LWDA and the Court to obtain approval of the settlement. In the event that the Parties learn that the Settlement will not be approved by stipulation, Plaintiff's Counsel shall file a motion for approval of this Settlement.

13. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not dismiss the Action with prejudice, as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, or the settlement does not become final for any other reason, then either of the Parties shall have the right within ten (10) calendar days of written notice thereof to elect to terminate the Settlement Agreement, in which case it shall have no force or effect, and the Parties shall be deemed to have reverted to their original, respective status as of the date and time immediately prior to the execution of this Settlement Agreement.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties have mutually selected Phoenix Settlement Administrators, Inc. to handle the administration of this settlement, subject to approval by the Court.

Notice to Aggrieved Employees.

a. No later than twenty (20) business days after the Effective Date, Defendant shall provide the Settlement Administrator with a list of the Aggrieved Employees (the "Aggrieved Employees List"). The Aggrieved Employees List shall include each Aggrieved Employee's full name, last known mailing address, last known telephone number, start date(s) of employment, end date(s) of employment, total pay periods worked for DialMED in California during the PAGA Period, and Social Security number, to the extent available from DialMED's records. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and shall only access and use the list to administer the settlement in conformity with the Court's orders. DialMED will in good faith compile from its records the Aggrieved Employees List and provide it to the Settlement Administrator in a computer-readable format, such as a Microsoft Excel spreadsheet.

b. No later than fifteen (15) calendar days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will mail the Employee Payments under cover letter, substantially in the form attached hereto as "**Exhibit A**" ("Cover Letter"), to each of the Aggrieved Employees identified on the Aggrieved Employees List. Prior to mailing the Cover Letter, the Settlement Administrator shall check the addresses provided in the Aggrieved Employees List using the United States Postal Service's National Change of Address database, and update the addresses for known address changes. Should any of the mailings to the Aggrieved Employees of their Cover Letter and Employee Payments be returned as undeliverable within thirty (30) calendar days of mailing, the Settlement Administrator will have five (5) calendar days after it receives the returned undeliverable mail to search for a more current address for the Aggrieved Employee (via a skip trace or other reasonable method) and re-mail the Cover Letter and Employee Payments to any alternative or updated address obtained by the Settlement Administrator.

Deposit and Distribution of Gross Settlement Amount.

a. No later than thirty (30) days from the Effective Date ("First Funding Date"), Defendant shall fund \$70,000 of the Gross Settlement Amount into a settlement account established by the Settlement Administrator, for administration and distribution in accordance with this Settlement Agreement and the Court's orders. No later than ninety (90) days from the Effective Date or by December 31, 2021, whichever is later ("Second Funding Date"), Defendant shall fund the remaining \$70,000 of the Gross Settlement Amount into a settlement account established by the Settlement Administrator, for administration and distribution in accordance with this Settlement Agreement and the Court's orders.

b. The Settlement Administrator shall distribute payments for the General Release Fee, the Attorneys' Fees, the Litigation Costs, the Settlement Administration Costs, the Employee Payments, and the LWDA Payment within fifteen (15) calendar days after the Second Funding Date. All payments provided for by this Settlement Agreement shall be made by the Settlement Administrator in accordance with this Settlement Agreement and the Court's order approving this settlement.

c. Each Aggrieved Employee will be issued one check for his or her Employee Payment which will expire one hundred and eighty (180) calendar days from the date the checks are issued by the Settlement Administrator. After the 180 day-period, the Settlement Administrator shall cancel all checks that have not been cashed or deposited and remit funds associated with such canceled checks to the State Controller's Office, Unclaimed Property Division, in the name associated with each Aggrieved Employee whose Employee Payment checks are canceled.

V. MISCELLANEOUS PROVISIONS

1. **No Impact on Employee Benefit Plans.** Neither the Settlement Agreement nor any amounts paid to Plaintiff, any Aggrieved Employee, or the LWDA under the settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by DialMED. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under DialMED's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going-forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any DialMED benefit plan, policy, or bonus program. DialMED retains the right, if necessary, to modify the language of its benefit plans, policies, and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies, and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

2. **Tax Consequences.** Plaintiff and Aggrieved Employees will be solely responsible for correctly characterizing any compensation received under the settlement on his/her personal income tax returns for tax purposes, and paying all appropriate taxes due for any and all amounts paid to them under the settlement. Plaintiff, Defendant, Plaintiff's Counsel, and Defendant's Counsel make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied upon as such.

3. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to

have been entered into in California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Los Angeles.

4. **Entire Agreement.** This Settlement Agreement constitutes the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the Action and PAGA Released Claims.

5. **Judgment and Continued Jurisdiction.** The Parties agree that this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6, and the Court, to the fullest extent of the law, shall retain exclusive and continuing jurisdiction over this Action, over all Parties, and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Settlement Agreement.

6. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties, subject to approval by the Court.

7. **Authorization to Enter into Binding Settlement Agreement.** Defendant represents and warrants that the undersigned has the authority to act on behalf of DialMED and to bind DialMED to the terms of this Settlement Agreement. Plaintiff represents and warrants that she has the capacity to act on her own behalf and on behalf of all who might claim through her to bind her to the terms and conditions of this Settlement Agreement. Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have full authority to enter into this settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any settlement and/or mediation privileges and/or confidentiality provisions that otherwise might apply under federal or state law.

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

9. **Execution and Counterparts.** This Settlement Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and

scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

10. **Acknowledgement of Mutual Drafting and that the Settlement is Fair, Adequate, and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action, and have arrived at this settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this settlement. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

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

12. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, provided that the essential terms and conditions of this Settlement Agreement for each Party remain valid, binding and enforceable, the remaining portions of this Settlement Agreement will continue to be valid, and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

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

14. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

IN WITNESS THEREOF, the Parties each acknowledge that she/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

PLAINTIFF:

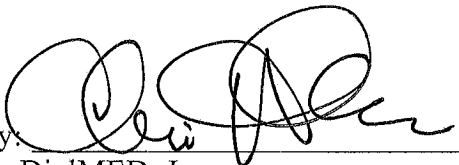
Dated: 5/5/2021

DocuSigned by:
Jacqueline Rosas
D63624C7EFEC410...

By: _____
Jacqueline Rosas

DEFENDANT:

Dated: 5/5/2021

By:  _____
DialMED, Inc.