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on behalf of himself and all others similarly situated and aggrieved

(Attorneys for Defendants on the next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JOSE BACA FLORES, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

UNITED MAINTENANCE COMPANY,
INC. an Illinois corporation; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 21STCV07008

[Assigned to the Hon. Carolyn B. Kuhl in
Dept. 12]

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

Action Filed: February 23, 2021

Trial Date: None Set

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This Class Action and PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiff Jose Baca Flores (“Plaintiff”) and defendant United Maintenance Company, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties” or individually as “Party.”

1. DEFINITIONS

1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant, captioned *Jose Baca Flores v. United Maintenance Company, Inc.*, Case No. 21STCV07008, initiated on February 23, 2021 and pending in the Superior Court of the State of California, County of Los Angeles.

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

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

1.4. “Aggrieved Employee” means all individuals who were employed by Defendant in California as a non-exempt employee at any time during the PAGA Period.

1.5. “Class” means all individuals who were employed by Defendant in California as non-exempt hourly employees at any time during the Class Period.

1.6. “Class Counsel” means David D. Bibiyan, Jeffrey D. Klein, and Vedang J. Patel of Bibiyan Law Group, P.C.

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

1.8. “Class Data” means Class Member’s identifying information in Defendant’s possession including the Class Member’s: (1) name; (2) last known address(es); (3) last known telephone number(s); (4) Social Security Number(s); (5) the dates of employment (i.e., hire dates, and, if applicable, rehire dates(s)); (6) the number of Class Period Workweeks; and (7) the number of

PAGA Pay Periods.

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

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

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

1.12. “Class Period” means the period between February 23, 2017 through December 31, 2022.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” or “Plaintiff’s Enhancement Award” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “Defendant” means the named defendant United Maintenance Company, Inc.

1.17. “Defense Counsel” means Aaron H. Cole and Omar M. Aniff of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

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

1 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the
2 day after the appellate court affirms the Judgment and issues a remittitur.

3 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

4 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
5 of the Settlement.

6 1.21. “Final Judgment” means the Judgment entered by the Court upon granting Final Approval
7 of the Settlement.

8 1.22. “Gross Settlement Amount” means Three Hundred Fifty Thousand Dollars and Zero
9 Cents and Zero Cent (\$350,000.00), which is the total amount Defendant agrees to pay under the
10 settlement except as provided in Paragraph 3.1 and 8.1 below. The Gross Settlement Amount
11 will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA
12 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
13 Litigation Expenses Payment, and the Administrator’s Expenses.

14 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
15 Net Settlement Amount calculated according to the number of Workweeks worked during the
16 Class Period.

17 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of the 25%
18 of the PAGA Penalties calculated according to the number of Pay Periods worked during the
19 PAGA Period.

20 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

21 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
22 entitled, under Labor Code section 2699, subd. (i).

23 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties to be paid to the LWDA
24 under Labor Code section 2699, subd. (i).

25 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
26 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
27 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
28 Litigation Expenses Payment and the Administration Expenses Payment. The remainder is to be

1 paid to Participating Class Members as Individual Class Payments.

2 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
3 Settlement by sending the Administrator a valid and timely Request for Exclusion.

4 1.30. “Operative Complaint” means the last complaint filed by Plaintiff in the Los Angeles
5 County Superior Court in the Action.

6 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
7 for Defendant during the PAGA Period.

8 1.32. “PAGA Period” means the period between December 16, 2019 through the end of the
9 Class Period.

10 1.33. “PAGA” means the Private Attorneys’ General Act (Labor Code §§ 2698, et seq.).

11 1.34. “PAGA Notice” means Plaintiff’s letter to Defendant providing notice pursuant to Labor
12 Code section 2699.3, subd. (a).

13 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties (\$20,000.00) to be
14 paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000)
15 and the 75% to the LWDA (\$15,000.00) in settlement of PAGA claims.

16 1.36. “Participating Class Member” means a Class Member who does not submit a valid and
17 timely Request for Exclusion from the Settlement.

18 1.37. “Plaintiff” means Jose Baca Flores, the named Plaintiff in the Action.

19 1.38. “Preliminary Approval” means the Court’s Order granting Preliminary Approval of the
20 Settlement.

21 1.39. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval
22 of the Settlement.

23 1.40. “Released Class Claims” means the claims being released as described in Paragraph 5.2
24 below.

25 1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4
26 below.

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1 1.42. “Released Parties” means: Defendant and each of its former and present directors,
2 officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns,
3 subsidiaries, and affiliates.

4 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be
5 excluded from the Class Settlement signed by the Class Member.

6 1.44. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to
7 Class Members and Aggrieved Employees and shall be the last date on which Class Members
8 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
9 Settlement. Class Members to whom Notice Packets are re-sent after having been returned
10 undeliverable to the Administrator shall have an additional fifteen (15) days beyond the Response
11 Deadline has expired.

12 1.45. “Settlement” means the disposition of the Action effected by this Agreement and the
13 Judgment.

14 1.46. “Workweek” means any week during which a Class Member worked for Defendant for
15 at least one day in a non-exempt position during the Class Period in California, based on hire
16 dates, termination dates (as applicable), and re-hire dates (as applicable).

17 **2. RECITALS**

18 2.1. On Dec 16, 2020, Plaintiff filed with the Labor and Workforce Development Agency
19 (“LWDA”) and served on Defendant a notice under Labor Code section 2699.3 (the “PAGA
20 Notice”) stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties for
21 Aggrieved Employees. The PAGA Notice includes violations of law pled in the Class Action, in
22 addition to a request for penalties for failure to comply with various Labor Code sections.

23 2.2. On February 23, 2021, Plaintiff commenced this Action by filing a complaint alleging
24 causes of action against Defendant for: (1) failure to pay overtime wages; (2) failure to pay
25 minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods (5)
26 waiting time penalties; (6) wage statements violations; (7) failure to indemnify; (8) unfair
27 competition; (9) civil penalties under Labor Code Section 210; (10) civil penalties under labor
28 code section 226.3; (11) civil penalties under labor code section 558; (12) civil penalties under

labor code section 1174.5; (13) civil penalties under labor code section 1197.1; and (14) civil penalties under labor code section 2699. Defendant denies the allegations in the complaint, denies any failure to comply with the laws identified in the complaints, and denies any and all liability for the causes of action alleged in the complaint.

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

2.4. On September 26, 2022, the parties participated in an all-day mediation presided over by Jeffrey Ross, Esq. which, after additional informal discovery and investigation, led to this Agreement to settle the Action.

2.5. Plaintiff obtained, through informal discovery: (1) time and payroll records for all Class Members; (2) data points, including average rates of pay total hours worked during the Class Period, (3) the number of pay periods worked during the Class Period, (4) the number of terminated/separated Class Members eligible for waiting time penalties, (5) the number of Aggrieved Employees, (6) the number of Class Member eligible for wage statement violations; and (7) portions of the Defendant's employee handbooks. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 (Dunk/Kullar).

2.6. The Court has not granted class certification.

2.7. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by paragraph 8.1 below, Defendant promises to pay \$350,000.00 and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount or any payroll

1 taxes prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will
2 disburse the entire Gross Settlement Amount without asking or requiring Participating Class
3 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the
4 Gross Settlement Amount will revert to Defendant.

5 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
6 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
7 in the Final Approval:

8 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of
9 not more than \$7,500.00 in addition to any Individual Class Payment and any Individual
10 PAGA Payment the Class Representative is entitled to receive as a Participating Class
11 Member. Defendant will not oppose Plaintiff's request for a Class Representative
12 Service Payment that does not exceed this amount. As part of the motion for Class
13 Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court
14 approval for any Class Representative Service Payment no later than 16 court days prior
15 to the Final Approval Hearing. If the Court approves a Class Representative Service
16 Payment less than the amount requested, the Administrator will retain the remainder in
17 the Net Settlement Amount. The Administrator will pay the Class Representative
18 Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability
19 for employee taxes owed on the Class Representative Service Payment.

20 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which
21 is currently estimated to be \$122,500.00 and a Class Counsel Litigation Expenses
22 Payment of not more than \$30,000.00. Defendant will not oppose requests for these
23 payments provided that they do not exceed these amounts. Class Counsel will file a
24 motion for Class Counsel Fees Payment and/or a Class Litigation Expenses Payment
25 prior to the final Approval Hearing. If the Court approves the Class Counsel Fees
26 Payment and/or Class Counsel Litigation Expenses Payment less than the amounts
27 requested, the Administrator will allocate the remainder to the Net Settlement Amount.
28 Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel

1 arising from any claim to any portion of any Class Counsel Fees Payment and/or Class
2 Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel
3 Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS
4 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on
5 the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment
6 and holds Defendant harmless, and indemnifies Defendant, from any dispute or
7 controversy regarding any division or sharing of any of these payments. There will be
8 no additional charge to either the Class Members or Defendant for such work, unless
9 Defendant fails to fully fund the Gross Settlement Amount and employer-side taxes and
10 further efforts are necessary from Class Counsel to remedy such breach, including,
11 without limitation, moving the Court to enforce the Agreement.

12 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
13 \$10,000.00 except for a showing of good cause and as approved by the Court. To the
14 extent the Administration Expenses are less, or the Court approves payment less than
15 \$10,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

16 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by
17 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by
18 all Participating Class Members during the Class Period and (b) multiplying the result
19 by each Participating Class Member's Workweeks.

20 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
21 Class Member's Individual Class Payment will be allocated to settlement of
22 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
23 withholding and will be reported on an IRS W-2 Form. The remaining 80% of
24 each Participating Class Member's Individual Class Payment will be allocated
25 to settlement of claims for interest and penalties (the "Non-Wage Portion"). The
26 Non-Wage Portions are not subject to wage withholdings and will be reported
27 on IRS 1099 Forms. Participating Class Members assume full responsibility and
28 liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$5,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates that, as of September 26, 2022, there were 371 Class Members who collectively worked a total of 12,166 Workweeks, and 119 Aggrieved Employees who worked a total of 3,145 of PAGA Pay Periods.

4.2. Class Data. Not later than seven (7) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a

1 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
2 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement
3 and for no other purpose, and restrict access to the Class Data to Administrator employees who
4 need access to the Class Data to effect and perform under this Agreement. Defendant has a
5 continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted
6 class member identifying information and to provide corrected or updated Class Data as soon as
7 reasonably feasible. Without any extension of the deadline by which Defendant must send the
8 Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts,
9 in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class
10 Data.

11 4.3. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount
12 and the amounts necessary to pay its share of payroll taxes by transmitting the funds to the
13 Administrator no later than fourteen (14) days after the Effective Date.

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

21 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
22 Individual PAGA Payments and send them to the Class Members via First Class U.S.
23 Mail, postage prepaid. The face of each check shall prominently state the date (not less
24 than 180 days after the date of mailing) when the check will be voided. The
25 Administrator will send checks for Individual Settlement Payments to all Participating
26 Class Members (including those for whom Class Notice was returned undelivered). The
27 Administrator will send checks for Individual PAGA Payments to all Aggrieved
28 Employees including Non-Participating Class Members who qualify as Aggrieved

Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Legal Aid at Work ("Cy Pres Recipient"), for use in the County of Los Angeles, pursuant to Code of Civil Procedure Section 384, subd. (b). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

5. RELEASE OF CLAIMS

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,

1 Plaintiff, Class Members and Class Counsel will release claims against all Released Parties as
2 follows:

3 5.1. Plaintiff's Release. Plaintiff and his respective former and present spouses,
4 representatives, agents, attorneys, heirs, administrators, successors and assigns generally, release
5 and discharge Released Parties from all claims, actions, charges, complaints, grievances and
6 causes of action, of whatever nature, whether known or unknown, which exist or may exist on
7 Plaintiff's behalf as of the end of the Class Period, including, but not limited to: (a) all claims
8 that were, or reasonably could have been alleged, based on the facts contained in the Class Action
9 Operative Complaint, and (b) all PAGA claims that were, or reasonably could have been, alleged
10 based on facts contained in the PAGA Action Operative Complaint and PAGA Notice, or
11 ascertained during the Action, including, but not limited to, all claims and code sections identified
12 and released under Paragraph 5.2 ("Plaintiff's Release"). Plaintiff's Release does not extend to
13 any claims or actions to enforce this Agreement, or to any claims for vested benefits,
14 unemployment benefits, disability benefits, social security benefits, workers' compensation
15 benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law
16 different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true
17 but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects,
18 notwithstanding such different or additional facts or Plaintiff's discovery of them.

19 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
20 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the
21 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
22 which reads:

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

27 5.2. Release by Participating Class Members: All Participating Class Members, on behalf of
28 themselves and their respective former and present representatives, agents, attorneys, heirs,

1 administrators, successors and assigns, release Released Parties from all claims during the Class
2 Period that were alleged, or reasonably could have been alleged, based on the facts stated in the
3 Operative Complaint, including: (1) all claims involving any alleged failure to pay overtime
4 wages; (2) all claims involving any alleged failure to pay minimum wages; (3) all claims
5 involving any alleged failure to provide meal periods or compensation in lieu thereof; (4) all
6 claims involving any alleged failure to provide rest periods or compensation in lieu thereof; (5)
7 all claims involving any alleged failure to pay all wages due upon termination; (6) all claims
8 involving any alleged wage statement violations; (7) all claims involving any alleged failure to
9 indemnify for business expenses; (8) all claims asserted through Business and Professions Code
10 section 17200 arising out of Labor Code violations referenced in the Operative Complaint.

11 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
12 release any other claims, including claims for vested benefits, wrongful termination, violation of
13 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
14 workers' compensation, or claims based on facts occurring outside the Class Period.

15 5.4. Release by Aggrieved Employees: Plaintiff, all Aggrieved Employees, and the State of
16 California are deemed to release, on behalf of themselves and their respective former and present
17 representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released
18 Parties from all claims for PAGA penalties during the PAGA Period that were alleged, or
19 reasonably could have been alleged based on the facts stated in the PAGA Notice and Operative
20 Complaint occurred, including, pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1,
21 and 2699, violations of Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226, 226.3,
22 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
23 1197.5, 1198.5, 2699, 2802, and 2810.5.

24 **6. MOTION FOR PRELIMINARY APPROVAL**

25 The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion
26 for Preliminary Approval") that complies with the Court's current checklist for Preliminary
27 Approvals.

28 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 14 days of the full

1 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
2 Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
3 potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations,
4 Defense Counsel and Defendant shall aver that they are not aware of any other pending matter
5 or action asserting claims that will be extinguished or adversely affected by the Settlement.

6 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
7 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
8 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
9 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor
10 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
11 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from
12 the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting
13 to its willingness to serve, competency, operative procedures for protecting the security of Class
14 Data, amounts of insurance coverage for any data breach, defalcation of funds or other
15 misfeasance, all facts relevant to any actual or potential conflicts of interest with Class Members
16 and the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiff,
17 Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness
18 and competency to serve and disclosing all facts relevant to any actual or potential conflicts of
19 interest with Class Members and the Administrator; (iv) a signed declaration from each Class
20 Counsel firm attesting to its competency to represent the Class Members, its timely transmission
21 to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section
22 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement
23 (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential
24 conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their
25 Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any
26 other pending matter or action asserting claims that will be extinguished or adversely affected by
27 the Settlement.

28 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible

1 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
2 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
3 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
4 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
5 Administrator.

6 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
7 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
8 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
9 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
10 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
11 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
12 meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise
13 satisfy the Court's concerns.

14 **7. SETTLEMENT ADMINISTRATION**

15 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement
16 Administrators ("Phoenix") to serve as the Administrator and verified that, as a condition of
17 appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all
18 duties specified in this Agreement in exchange for payment of Administration Expenses. The
19 Parties and their Counsel represent that they have no interest or relationship, financial or
20 otherwise, with the Administrator other than a professional relationship arising out of prior
21 experiences administering settlements.

22 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
23 Identification Number for purposes of calculating payroll tax withholdings and providing reports
24 to state and federal tax authorities.

25 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
26 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section
27 468B-1.
28

1 7.4. Notice to Class Members

2 7.4.1. No later than three (3) business days after receipt of the Class Data, the
3 Administrator shall notify Class Counsel that the list has been received and state the
4 number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class
5 Data.

6 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
7 days after receiving the Class Data, the Administrator will send to all Class Members
8 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
9 the Class Notice, with Spanish translation, substantially in the form attached to this
10 Agreement as Exhibit “A.” The first page of the Class Notice shall prominently estimate
11 the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment
12 payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if
13 applicable) used to calculate these amounts. Before mailing Class Notices, the
14 Administrator shall update Class Member addresses using the National Change of Address
15 database.

16 7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class
17 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class
18 Notice using any forwarding address provided by the USPS. If the USPS does not
19 provide a forwarding address, the Administrator shall conduct a Class Member Address
20 Search and re-mail the Class Notice to the most current address obtained. The
21 Administrator has no obligation to make further attempts to locate or send Class Notice
22 to Class Members whose Class Notice is returned by the USPS a second time.

23 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
24 and/or Pay Periods and Requests for Exclusion will be extended an additional 15 days
25 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
26 notice is re-mailed. The Administrator will inform the Class Member of the extended
27 deadline with the re-mailed Class Notice.

28 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise

discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 15 days after receipt of Class Notice or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be emailed or postmarked by the Response Deadline.

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

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled

1 to all benefits and bound by all terms and conditions of the Settlement, including the
2 Participating Class Members' Releases under Paragraphs 5.2 and 5.4 (if applicable) of
3 this Agreement, regardless whether the Participating Class Member actually receives
4 the Class Notice or objects to the Settlement.

5 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
6 Non-Participating Class Member and shall not receive an Individual Class Payment or
7 have the right to object to the class action components of the Settlement. Because future
8 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
9 Participating Class Members who are Aggrieved Employees are deemed to release the
10 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
11 PAGA Payment.

12 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
13 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
14 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
15 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the
16 allocation by communicating with the Administrator via mail. The Administrator must encourage
17 the challenging Class Member to submit supporting documentation. In the absence of any
18 contrary documentation, the Administrator is entitled to presume that the Workweeks contained
19 in the Class Notice are correct so long as they are consistent with the Class Data. The
20 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
21 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
22 shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods
23 to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

24 7.7. Objections to Settlement

25 7.7.1. Only Participating Class Members may object to the class action components of
26 the Settlement and/or this Agreement, including contesting the fairness of the
27 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
28 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

1 7.7.2. Participating Class Members may send written objections to the Administrator by
2 email or mail. In the alternative, Participating Class Members may appear in Court (or
3 hire an attorney to appear in Court) to present verbal objections at the Final Approval
4 Hearing. A Participating Class Member who elects to send a written objection to the
5 Administrator must do so not later than 45 days after the Administrator’s mailing of the
6 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
7 mailed).

8 7.7.3. Non-Participating Class Members have no right to object to any of the class action
9 components of the Settlement.

10 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
11 performed or observed by the Administrator contained in this Agreement or otherwise.

12 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
13 and use an internet website to post information of interest to Class Members including
14 the date, time and location for the Final Approval Hearing and copies of the Settlement
15 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
16 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
17 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
18 the Final Approval and the Judgment. The Administrator will also maintain and monitor
19 an email address and a toll-free telephone number to receive Class Member calls and
20 emails.

21 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
22 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
23 Not later than five (5) days after the expiration of the deadline for submitting Requests
24 for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
25 containing (a) the names and other identifying information of Class Members who have
26 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
27 other identifying information of Class Members who have submitted invalid Requests
28 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted

(whether valid or invalid).

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

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

7.8.5. Administrator’s Declaration. Before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At

1 least seven (7) days before any deadline set by the Court, the Administrator will prepare,
2 and submit to Class Counsel and Defense Counsel, a signed declaration suitable for
3 filing in Court attesting to its disbursement of all payments required under this
4 Agreement. Class Counsel is responsible for filing the Administrator's declaration in
5 Court.

6 **8. CLASS SIZE ESTIMATES**

7 Based on its records, Defendant estimates that, as of the date of this Settlement
8 Agreement, (1) there are 371 Class Members and 12,166 Total Workweeks during the Class
9 Period and (2) there are 119 Aggrieved Employees who worked 3,145 Pay Periods during the
10 PAGA Period.

11 8.1. Defendants represent that there are no more than 12,166 Workweeks during the Class
12 Period. In the event the number of Workweeks during the Class Period increases more than 10%
13 or 1,217 Workweeks worked, then the Gross Settlement Amount shall be increased
14 proportionally by the Workweeks in the Class Period in excess of 13,383 Workweeks (12,166 +
15 1,217 Workweeks) multiplied by the Workweek Value. The Workweek Value shall be calculated
16 by dividing the originally agreed-upon Gross Settlement Amount (\$350,000.00) by 12,166
17 Workweeks. The Parties agree that the Workweek Value of the settlement amounts to \$28.77 per
18 Workweek (\$350,000.00 / 12,166 Workweeks). Thus, for example, should there be 13,500
19 Workweeks during the Class Period, then the Gross Settlement Amount shall be increased by
20 \$3,366.09 (13,500 Workweeks – 13,383 Workweeks) x \$28.77 per Workweek.

21 **9. MOTION FOR FINAL APPROVAL**

22 Before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
23 final approval of the Settlement that includes a request for approval of the PAGA settlement
24 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
25 Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these
26 documents to Defense Counsel not later than three days prior to filing the Motion for Final
27 Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or
28

1 by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final
2 Approval.

3 9.1. Response to Objections. Each Party retains the right to respond to any objection raised
4 by a Participating Class Member, including the right to file responsive documents in Court no
5 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
6 by the Court.

7 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
8 Approval on any material change to the Settlement (including, but not limited to, the scope of
9 release to be granted by Class Members), the Parties will expeditiously work together in good
10 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
11 Approval. The Court's decision to award less than the amounts requested for the Class
12 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
13 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
14 modification to the Agreement within the meaning of this paragraph.

15 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
16 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
17 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
18 and (iii) addressing such post-Judgment matters as are permitted by law.

19 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
20 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
21 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
22 respective counsel, and all Participating Class Members who did not object to the Settlement as
23 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
24 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
25 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
26 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
27 Parties' obligations to perform under this Agreement will be suspended until such time as the
28 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect

the amount of the Net Settlement Amount.

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

10. AMENDED JUDGMENT

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

11. ADDITIONAL PROVISIONS

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

and this Agreement).

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

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

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

11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and

1 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
2 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
3 its terms, and to execute any other documents reasonably required to effectuate the terms of this
4 Agreement including any amendments to this Agreement.

5 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
6 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
7 Settlement Agreement, submitting supplemental evidence and supplementing points and
8 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
9 or content of any document necessary to implement the Settlement, or on any modification of the
10 Agreement that may become necessary to implement the Settlement, the Parties will seek the
11 assistance of a mediator and/or the Court for resolution.

12 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
13 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
14 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
15 action, or right released and discharged by the Party in this Settlement.

16 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
17 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
18 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
19 Part 10, as amended) or otherwise.

20 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
21 modified, changed, or waived only by an express written instrument signed by all Parties or their
22 representatives, and approved by the Court.

23 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
24 the benefit of, the successors of each of the Parties.

25 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
26 governed by and interpreted according to the internal laws of the state of California, without
27 regard to conflict of law principles.

28 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of

1 this Agreement. This Agreement will not be construed against any Party on the basis that the
2 Party was the drafter or participated in the drafting.

3 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
4 during Action and in this Agreement relating to the confidentiality of information shall survive
5 the execution of this Agreement.

6 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
7 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
8 in connection with the mediation, other settlement negotiations, or in connection with the
9 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
10 be used in any way that violates any existing contractual agreement, statute, or rule of court.

11 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
12 inserted for convenience of reference only and does not constitute a part of this Agreement.

13 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
14 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
15 weekend or federal legal holiday, such date or deadline shall be on the first business day
16 thereafter.

17 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
18 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
19 be accepted as an original. All executed counterparts and each of them will be deemed to be one
20 and the same instrument if counsel for the Parties will exchange between themselves signed
21 counterparts. Any executed counterpart will be admissible in evidence to prove the existence and
22 contents of this Agreement.

23 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
24 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
25 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
26 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
27 process.

28 11.19. Severability. In the event that one or more of the provisions contained in this Agreement

1 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
2 illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel
3 and Class Counsel, on behalf of the Parties and the Class, mutually elect in writing to proceed
4 as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

5 ///

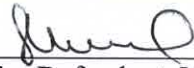
6 ///

7 **IT IS SO AGREED:**

9 Jose Baca Flores

10 Jose Baca Flores (Nov 21, 2023 08:08 PST)

11 For Plaintiff, Jose Baca Flores

12 

13 December 1, 2023

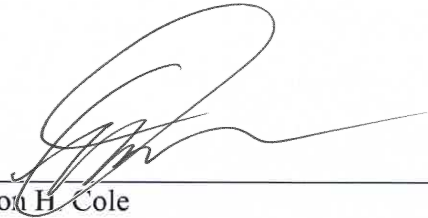
14 For Defendant, United Maintenance Company,
15 Inc. Kristin Marano

16 Vedang J. Patel

17 David D. Bibiyan

18 Vedang J. Patel

19 Counsel for Plaintiff Jose Baca Flores

20 

21 Aaron H. Cole

22 Omar M. Aniff

23 Counsel for Defendant, United Maintenance
24 Company, Inc.