

**CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

This Class Action and PAGA Settlement Agreement and Release of Claims is entered into by and between Plaintiffs Jose A. Melgar Fuentes and Luis Cartagena, individually and on behalf of all others similarly situated, and Defendant Maas Brothers, Inc., and is approved by their respective counsel of record, subject to the terms and conditions hereof and the Court's approval.

A. Definitions

1. "Action" or "Lawsuit" means and refers to the cases entitled *Jose A. Melgar Fuentes, et al. v. Maas Brothers, Inc.*, Alameda County Superior Court Case No. RG21086730.

2. "Aggrieved Employees" include all non-exempt employees who are or were previously employed by Defendant in California from January 19, 2020, through September 8, 2021.

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

4. "Class Claims" will include all claims that were pled in the operative Complaint or that could have been pled based on the facts alleged therein, including claims for unpaid wages (including failure to pay full, regular, and overtime wages and minimum wages), meal and rest break violations, failure to provide accurate itemized wage statements, failure to pay all earned wages due to separated employees, and failure to pay vested vacation.

5. "Class Counsel" refers to Mehrdad Bokhour of Bokhour Law Group, PC and Michelle Eshaghian of Eshaghian Law, PC.

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

1 for each Settlement Class Member.

2 7. “Class Period” and “Class Release Period” shall mean January 19, 2017, through
3 September 8, 2021.

4 8. “Class Representatives” or “Plaintiffs” means and refers to Jose A. Melgar
5 Fuentes and Luis Cartagena.

6 9. “Complaint” refers to the Complaint filed in the Action entitled *Fuentes, et al. v.*
7 *Maas Brothers, Inc.*, Alameda County Superior Court Case No. RG21086730.

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

10 11. “Defendant” means and refers to Maas Brothers, Inc.

11 12. “Defendant’s Counsel” or “Defense Counsel” means and refers to Linda M.
12 Moroney and Natalie B. Fujikawa of Gordon Rees Scully Mansukhani, LLP.

13 13. “Effective Date” means the latest of the following dates: (i) if no Settlement
14 Class Member objects, timely and properly intervenes, or files a motion to vacate the judgment
15 approving the Settlement Agreement under Code of Civil Procedure § 663, then the date the
16 Court enters an order granting Final Approval of the Settlement; (ii) if a Settlement Class
17 Member objects, intervenes, or files a motion to vacate the judgment approving the Settlement
18 Agreement, then sixty-one (61) calendar days following the date the Court enters an order
19 granting final approval of the Settlement, assuming no appeal is filed; or (iii) if a timely appeal
20 is filed, the date of final resolution of that appeal (including any requests for rehearing and/or
21 petitions for *certiorari*), resulting in final judicial approval of the Settlement.

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

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

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

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

5 18. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph
6 48(c) below.

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

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

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

14 22. “PAGA” shall refer to the California Labor Code Private Attorneys General Act
15 of 2004, California Labor Code Sections 2698, *et seq.*

16 23. “PAGA Claims” shall include any and all claims for civil penalties pursuant to
17 PAGA based on the allegations stated in the PAGA Notice and that were pled in the operative
18 Complaint or that could have been pled based on the facts alleged therein, including claims for
19 unpaid wages (including failure to pay full, regular, and overtime wages and minimum wages),
20 meal and rest break violations, failure to provide accurate itemized wage statements, failure to
21 pay all earned wages due to separated employees, and failure to pay vested vacation.

22 24. “PAGA Notices” shall refer to the notice sent by Plaintiffs, by and through
23 counsel, on or about January 19, 2021, to the LWDA and to Defendant, alleging that Defendant
24 engaged in violations of the California Labor Code and California Wage Orders.

25 25. “PAGA Period” and “PAGA Release Period” shall mean January 19, 2020,
26 through September 8, 2021.

27 26. “Participating Class Member” means any and all Settlement Class Members who
28 are deemed to participate and receive an Individual Settlement Amount for the Class Claims and

1 who do not opt-out of the settlement of the Class Claims by submitting timely valid Requests
2 for Exclusion.

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

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

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

15 30. "QSF" means the Qualified Settlement Fund set up by the Settlement
16 Administrator for the benefit of the Final Settlement Class, and from which the settlement
17 payments shall be made, and which is intended to be a fund that qualifies under Internal
18 Revenue Code Section 468.

19 31. "Release" shall mean the release and discharge of the Class Claims by Plaintiffs
20 and all of the Participating Class Members and the release and discharge of the PAGA Claims
21 by Plaintiffs and all of the Aggrieved Employees.

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

28 ///

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

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

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

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

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

18 38. “Settlement Class Member” or “Class Member” refers to individual members of
19 the Settlement Class.

20 39. “Settlement Class” and “Settlement Class Members” refers to all persons who
21 are or were previously employed by Defendant in California classified as a non-exempt
22 employee during the Class Period.

23 40. “Workweeks Worked” for each Settlement Class Member and Aggrieved
24 Employee means any workweek during the Class Period and/or the PAGA Period, as
25 applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed
26 by Defendant as a non-exempt employee.

27 ///

28 ///

1 **B. General Terms**

2 41. On or about January 19, 2021, Plaintiffs filed a class and PAGA representative
3 action complaint for unpaid wages (including failure to pay full, regular, and overtime wages
4 and minimum wages), meal and rest break violations, failure to provide accurate itemized wage
5 statements, failure to pay all earned wages due to separated employees, failure to pay vested
6 vacation, and PAGA penalties based on the foregoing Labor Code violations.

7 42. Defendant denies Plaintiffs' claims and allegations and contends that the Action
8 is not suitable for class certification and/or representative treatment.

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

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

24 45. On September 8, 2021, the Parties participated in mediation with Tripper
25 Ortman, from Ortman Mediation, a highly experienced class action mediator. After a full-day
26 mediation and the issuance of a mediator's proposal, the Parties reached a settlement.

27 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
28 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and

1 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
2 any statute or law or liability on the claims or allegations in the Action.

3 47. Stipulation for Class Certification and Representative Treatment. For settlement
4 purposes only, Defendant will stipulate that the Settlement Class Members described herein
5 who do not Request Exclusion from the Settlement Class may be conditionally certified as a
6 settlement class and that the Aggrieved Employees are appropriate for representative treatment
7 for purposes of settlement. This stipulation to certification and representative treatment is in no
8 way an admission that class action certification and/or representative treatment is proper and
9 shall not be admissible in this or in any other action except for the sole purposes of enforcing
10 this Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties'
11 stipulation to class certification and representative treatment as part of the Settlement shall
12 become null and void *ab initio* and shall have no bearing on and shall not be admissible in
13 connection with the issue of whether or not class certification and/or representative treatment
14 would be appropriate in a non-settlement context. Defendant expressly reserves its rights and
15 declares that it will continue to oppose class certification, representative treatment, and the
16 substantive merits of the case should the Court fail to issue Final Approval. Plaintiffs expressly
17 reserve their rights and declare that they will continue to pursue class certification and
18 representative treatment and a trial should the Court fail to issue Final Approval.

19 **C. Terms of Settlement**

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

21 (a) Gross Settlement Amount: The Parties agree to settle this Action for Six
22 Hundred Eighty Thousand Dollars (\$680,000) ("the Settlement Amount"). The Settlement
23 Amount is the maximum amount that will be paid by Defendant, and includes Individual
24 Settlement Amounts, attorneys' fees of Class Counsel, costs and expenses, the Service Payment
25 to the Class Representatives, all Settlement Administration Costs, and payment to the Labor
26 Workforce Development Agency ("LWDA") for PAGA penalties. Defendant shall separately
27 pay the employers' share of applicable payroll taxes.

28 ///

(b) The Settlement is based on Defendant's representation that there are approximately 13,660 Workweeks Worked included in the Class Period. In the event that the actual number of workweeks worked by all Settlement Class Members during this period increases by 10% or more, then Defendant shall increase the QSF on a proportional basis in excess of 10 percent (i.e., if there were an eleven percent (11%) increase in the number of workweeks, then Defendant will increase the QSF by one percent (1%)).

(c) Net Settlement Amount: The "Net Settlement Amount" is defined as the Settlement Amount less attorneys' fees and litigation costs as approved and awarded by the Court, the Service Payment to the Class Representatives as approved and awarded by the Court, the Settlement Administration Costs, as approved and awarded by the Court, and the portion of the Ten Thousand Dollars (\$10,000.00) allocated to payment for PAGA penalties as described in paragraph 42 below. In the event that the Court reduces the attorneys' fees and litigation costs or, Service Awards, Settlement Administration Costs, or either increases or decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or decreased accordingly.

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

i. PAGA Amount: \$10,000 of the Gross Settlement Amount has been designated to the PAGA claims. Twenty-five percent (25%), or \$2,500, shall be paid out to Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the \$2,500 proportionate to the number of Workweeks Worked by the Aggrieved Employees during the PAGA Period compared to the total number of Workweeks Worked by all Aggrieved Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount for the Released PAGA claims paid one hundred percent (100%) as civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the Settlement Administrator.

1 ii. Class Amount: The Net Settlement Amount shall be allocated to each
2 Participating Class Member based on his or her proportionate Workweeks Worked during the
3 Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the
4 numerator which is the Participating Class Member's total Workweeks Worked during the Class
5 Period, and the denominator of which is the total Workweeks Worked by all Participating Class
6 Members during the Class Period. Workweeks Worked by Route Supervisors will count as 1.5
7 workweeks. Each Settlement Class Member's respective designation and calculation of total
8 pay periods worked and estimated, pre-tax share of the Net Settlement Amount shall be
9 identified in the Notice. If there are any timely submitted Requests for Exclusion, the Settlement
10 Administrator shall proportionately increase the Individual Settlement Amounts for each
11 Participating Class Member so that the amount actually distributed to Participating Class
12 Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

13 (e) Allocation of Individual Settlement Amounts: The Individual Settlement
14 Amounts will be allocated for tax purposes based on the allegations in the Action as follows:
15 one third (33.33%) percent will be paid as wages subject to withholding of all applicable local,
16 state, and federal taxes; and two thirds (66.67%) will be paid as interest and as civil penalties
17 (pursuant to, e.g., California Labor Code sections 203, 226) from which no taxes will be
18 withheld. The Settlement Administrator will issue to each Participating Class Member an
19 Internal Revenue Service Form W-2 and comparable state forms with respect to the wage
20 allocation and a Form 1099 with respect to the civil penalties and interest allocations.

21 (f) Service Payment to Class Representatives: The amount awarded to the Class
22 Representatives as a Service Payment will be set by the Court in its discretion, not to exceed
23 \$7,500 each, if both Class Representatives do not opt-out of the Settlement as to the Class
24 Claims, and do not take any action, directly or indirectly, to undercut this settlement. Defendant
25 agrees not to oppose this request. The Service Payment to Class Representatives will be paid out
26 of the Gross Settlement Amount. The Class Representatives will be issued IRS Form 1099 in
27 connection with this payment. Plaintiffs shall be solely and legally responsible to pay any and
28 all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as

1 the Service Payment to Plaintiffs less than the requested amount shall not be a basis for
2 Plaintiffs or Class Counsel to void this Stipulation. Should the Court approve a lesser amount
3 for the Service Payment, the difference shall be added to the Net Settlement Amount to be
4 distributed to the Participating Class Members and/or Aggrieved Employees. In the event of any
5 appeal of the amount of the service awards (if any) approved by the Court, if, after the
6 exhaustion of any such appellate review, additional amounts not awarded to Class
7 Representatives shall be added to the Net Settlement Amount to be distributed to the
8 Participating Class Members and/or Aggrieved Employees.

9 (g) Attorneys' Fees and Costs: Defendant agrees to not oppose a request by Class
10 Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement
11 Amount, plus reasonable litigation costs not to exceed \$15,000 ("Attorney's Fees and Cost
12 Award"). For purposes of this Settlement, Defendant agrees not to oppose any contention by
13 Class Counsel that attorneys' fees should be based on the common fund theory. The Attorney's
14 Fee and Cost Award shall be paid from the Gross Settlement Amount, and except for this
15 award, Defendant shall have no further obligation to pay any attorneys' fees, costs or expenses
16 to Class Counsel. Should the Court approve a lesser amount than what is sought by Class
17 Counsel, the difference shall be added to the Net Settlement Amount to be distributed to the
18 Participating Class Members. Any Court order awarding less than the amount sought by Class
19 Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the
20 Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs
21 (if any) approved by the Court, final funding and administration of the portion of the attorneys'
22 fees and/or costs award in dispute will be segregated and stayed pending the exhaustion of
23 appellate review. If, after the exhaustion of any such appellate review, additional amounts not
24 awarded to as attorneys' fees and costs shall be added to the Net Settlement Amount to be
25 distributed to the Participating Class Members and/or Aggrieved Employees. The Settlement
26 Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of
27 attorneys' fees and costs awarded by the Court. Class Counsel agrees that any allocation of fees

28 ///

1 between or among Class Counsel and any other attorney representing or claiming to represent
2 the Class Members shall be the sole responsibility of Class Counsel.

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

6 (i) PAGA Penalties: The Parties agree that \$10,000 is allocated to PAGA Penalties
7 and is to be paid from the Gross Settlement Amount, subject to Court approval. Of this amount,
8 \$7,500 (75%) shall be paid to the LWDA in satisfaction of Plaintiffs' claims for civil penalties
9 under the Private Attorney General Act of 2004 ("PAGA") and \$2,500 (25%) will be included
10 in the Individual Settlement Amounts, payable to the Aggrieved Employees as set forth in
11 Paragraph 48(d).

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

25 (k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT
26 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH
27 PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
28 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF

1 THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
2 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER
3 ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
4 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
5 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
6 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
7 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
8 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
9 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
10 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
11 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
12 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
13 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
14 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
15 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
16 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
17 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
18 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
19 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
20 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

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

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

3 **D. Release by Plaintiffs and the Final Settlement Class**

4 51. Upon the Effective Date of this Settlement, Plaintiffs and each Participating
5 Class Member, for themselves and for their respective spouses, domestic partners, marital
6 community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees,
7 legatees, executors, administrators, trustees, conservators, guardians, assigns, and
8 representatives, will forever completely release and discharge the Released Parties from the
9 Released Class Claims for the Class Release Period.

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

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

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

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

27 56. Plaintiffs and Defendant intend that the Settlement described in this Agreement
28 will release and preclude any further claim, whether by lawsuit, administrative claim or action,

1 arbitration, demand, or other action of any kind, by each and all of the Aggrieved Employees
2 and the LWDA to obtain a recovery based on, arising out of, and/or related to any and all of the
3 Released PAGA Claims. The Aggrieved Employees and the LWDA shall be so notified in the
4 Notice.

5 57. Class Representatives, on behalf of themselves and the Participating Settlement
6 Class Members, acknowledge and agree that the claims for unpaid wages, meal and rest period
7 violations, and untimely payment of wages, including, but not limited to accrued vacation, in
8 the Action, are disputed, and that the payments set forth herein constitute payment of all sums
9 allegedly due to them. Class Representatives, on behalf of themselves and the Participating
10 Settlement Class Members, acknowledge and agree that California Labor Code Section 206.5 is
11 not applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

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

15 **E. Release by Class Representatives**

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

Representatives' employment with Defendant or the remuneration for or termination of such employment (collectively, the "Class Representatives' Claims").

59. Without limiting the generality of the foregoing, Class Representatives also expressly release all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including but not limited to, negligence, fraud, misrepresentation and violation of California Labor Code section 970, negligent infliction of emotional distress, intentional infliction of emotional distress, defamation, "retaliation" claims and claims for violation of public policy, any claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and alleged "off the clock" work under federal and state law, including, but not limited to, California Labor Code Sections 204 and 558, waiting time penalties pursuant to California Labor Section 203, damages or penalties pursuant to California Labor Code Section 226, meal period and rest break payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, failure to provide one day of rest in seven pursuant to California Labor Code Sections 551 and 552, unfair competition and unfair business practices pursuant to Business and Professions Code Section 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs, including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged violation or breach of any other state or federal statute, rule and or regulation; including all applicable Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional

1 distress, intentional infliction of emotional distress, and defamation; any “wrongful discharge,”
2 “constructive discharge,” and “retaliation” claims; any claims relating to any breach of public
3 policy; any legal restrictions on Defendant’s right to discharge employees; and any federal,
4 state, or other governmental statute, regulation, or ordinance, including, without limitation: (1)
5 Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin
6 discrimination or harassment, including retaliation for reporting discrimination or harassment);
7 (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California
8 Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq.
9 (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 et
10 seq. (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government
11 Code § 12900 et seq. (discrimination or harassment in employment and/or housing, including
12 discrimination or harassment based on race, religious creed, color, national origin, ancestry,
13 disability, marital status, sex (including pregnancy), or age, including retaliation for reporting
14 discrimination or harassment); (7) California Family Rights Act, Cal. Government Code §
15 12945.1 et seq. (family/medical leave); (8) California Labor Code, including Section 1720 et
16 seq., or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race,
17 color, religion, sex, and national origin discrimination or harassment); (10) Executive Order
18 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973
19 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement
20 Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits); (14) the California Civil
21 Code; (15) the California Labor Code; (16) the California Constitution; (17) the National Labor
22 Relations Act; and (18) any other federal, state, or local statute or legislation.

23 60. Class Representatives expressly waive and relinquish all rights and benefits
24 afforded by Section 1542 of the Civil Code of the State of California and do so understanding
25 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil
26 Code of the State of California states:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
28 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT

1 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
2 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
3 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
4 DEBTOR OR RELEASED PARTY.

5 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
6 full and complete release and discharge of all parties, Class Representatives and Class Counsel
7 expressly acknowledge that this Settlement Agreement is intended to include in its effect,
8 without limitation, all claims that Class Representatives knew of, as well as all claims that they
9 do not know or suspect to exist in their favor against the Released Parties, or any of them, for
10 the time period from the beginning of time to the execution of this Settlement Agreement, and
11 that this Settlement Agreement contemplates the extinguishment of any such Class
12 Representatives' claims.

13 **F. Interim Stay of Proceedings**

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

18 **G. Notice Process**

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

28 ///

63. Disputes Regarding Settlement Administration. Any and all disputes relating to administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendant notify the Court that all payments and obligations contemplated by this Settlement Agreement have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court intervention. The Settlement Administrator shall also be responsible for issuing to Plaintiffs, Final Settlement Class Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be responsible for setting up all necessary tax accounts and forwarding all payroll taxes and penalties to the appropriate government authorities.

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

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

///

1 66. Returned Notices. The Settlement Administrator will take steps to ensure that the
2 Notice is received by all Settlement Class Members, including utilization of the National
3 Change of Address Database maintained by the United States Postal Service to review the
4 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any
5 Settlement Class Member for whom an updated address is located within ten (10) calendar days
6 following both the Settlement Administrator learning of the failed mailing and its receipt of the
7 updated address. The Notice shall be identical to the original Notice, except that it shall notify
8 the Settlement Class Member that the exclusion (opt-out) request or objection must be returned
9 by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the
10 Notice.

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

14 68. Disputes Regarding Class Data. Settlement Class Members are deemed to
15 participate in the Settlement, unless they opt-out. The Notice will inform Settlement Class
16 Members of his/her estimated Individual Settlement Amount and the number of Weeks Worked
17 during the Class Period and during the PAGA Period. Settlement Class Members may dispute
18 their Weeks Worked if they feel they were employed more workweeks in the Class Period in
19 California than Defendant's records show by timely submitting evidence to the Settlement
20 Administrator. Defendant's records will be presumed determinative absent reliable evidence to
21 rebut Defendant's records, but the Settlement Administrator will evaluate the evidence
22 submitted by the Settlement Class Member and provide the evidence submitted to Class
23 Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to
24 determine the Class Member's actual number of Workweeks Worked and estimated Individual
25 Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to
26 submit the dispute to the Settlement Administrator to render a final decision. Settlement Class
27 Members will have until the Notice Response Deadline to dispute Workweeks Worked, object
28 or opt out, unless extended by the Court. In the event that the Settlement Administrator

1 increases the number of Workweeks Worked for any Settlement Class Member, then the
2 Settlement Administrator will recalculate the Participating Class Members' Individual
3 Settlement Amounts; accordingly, in no event will Defendant be required to increase the Gross
4 Settlement Amount.

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

8 70. Settlement Class Members' Rights. Each Settlement Class Member will be fully
9 advised of the Settlement, the ability to object to the provisions in the Settlement related to the
10 Class Claims, and the ability to opt-out or request exclusion from the Class Claims provisions of
11 the Settlement. Settlement Class Members will have until the Notice Response Deadline to
12 object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The
13 Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what
14 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the
15 request of Class Counsel or Defense Counsel. The Notice will inform the Settlement Class
16 Members of the Court-established deadlines for filing objections or requesting exclusion from
17 the Class Claims provisions of the Settlement in accordance with the following guidelines:

18 (a) Requests for Exclusion from Participating Settlement Class. Any
19 Settlement Class Member, other than Plaintiff, may request to be excluded from the
20 Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement
21 Administrator, postmarked on or before the Notice Response Deadline. The Request for
22 Exclusion should state:

23 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS
24 IN THE FUENTES ET AL. V. MAAS BROTHERS LAWSUIT. I
25 UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE
26 SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY
27 FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS
28 LAWSUIT."

Any Request for Exclusion must include the full name, address, telephone number, last
four digits of the social security number or date of birth, and signature of the Settlement Class

1 Member requesting exclusion. The Request for Exclusion must be returned by mail to the
2 Settlement Administrator at the specified address. Any such Request must be made in
3 accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if
4 postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing.
5 Any Settlement Class Member who timely requests exclusion in compliance with these
6 requirements: (i) will not have any rights under this Agreement with respect to the Class
7 Claims, including the right to object, appeal or comment on the Settlement; (ii) will not be
8 entitled to receive any payments under this Agreement with respect to Class Claims; and (iii)
9 will not be bound by this Agreement, or the Judgment with respect to the Class Claims.

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

17 (c) Objections to Settlement of Class Claims. Any Settlement Class Member,
18 other than Plaintiffs, may object to the terms of this Agreement with respect to the Class Claims
19 and may appear at the Final Approval Hearing and object whether or not they have filed a
20 written objection as outlined herein. To object, a Settlement Class Member shall inform the
21 Settlement Administrator, in writing, of his or her objection, which must be postmarked by the
22 Notice Response Deadline at the address set forth in the Notice. Such objection shall include the
23 full name, address, telephone number, dates of employment with Defendant of the Objecting
24 Settlement Class Member, the case name and number, the basis for the objection, including any
25 legal support and each specific reason in support of the objection, as well as any documentation
26 or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by
27 counsel, the name and address of his or her counsel. If any Objecting Settlement Class Member
28 wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting

1 Settlement Class Member's written submission should include a request to be heard, and the
2 Court will determine whether Objecting Settlement Class Members will be permitted to speak.
3 The Settlement Administrator shall provide objections, if any, to Class Counsel and Defense
4 Counsel within three (3) days of receipt, and the Settlement Administrator shall attach the same
5 to its declaration of due diligence it files with the Court prior to the Final Approval Hearing.
6 Any Participating Class Member who files an objection remains eligible to receive monetary
7 compensation from the Settlement. Plaintiffs and Defendant shall not be responsible for any
8 fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any
9 objections to the Settlement. Submitting an objection does not preserve the right to appeal a
10 final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely
11 and properly intervening or filing a motion to vacate the judgment under Code of Civil
12 Procedure § 663. Settlement Class Members and Aggrieved Employees may not object to or
13 opt-out of the Settlement with respect to the PAGA Claims.

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

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

25 71. Funding of the Settlement Amount. Defendant shall make a one-time deposit into
26 the QSF of the Settlement Amount, as described in Paragraph 44(a) that is necessary to make all
27 payments required under this Settlement, within ten (10) days after the Effective Date, plus

28 ///

1 Defendant shall separately pay its share of employer payroll taxes as calculated and directed by
2 the Settlement Administrator.

3 72. Distribution of Funds. No later than ten (10) calendar days after deposit of the
4 payment into the QSF, the Settlement Administrator will mail the payments to the Participating
5 Class Members, the payment for the attorneys' fees and costs to Class Counsel, any Service
6 Payment to the Class Representatives, the payment to the LWDA for PAGA penalties, and will
7 pay itself the Settlement Administration Costs.

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

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

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

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

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

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

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

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

(d) Preliminarily approving this Settlement; and

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

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

///

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

2 78. In connection with the Final Approval Hearing provided for in this Settlement
3 Agreement, Class Counsel shall submit a proposed Final Approval Order:

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

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

10 (c) Entering judgment approving settlement, thereby permanently barring all
11 Participating Class Members from prosecuting any Released Class Claims against any of the
12 Released Parties and permanently barring all Aggrieved Employees and the LWDA from
13 prosecuting any Released PAGA Claims against any of the Released Parties.

14 **J. Voiding the Agreement**

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

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

27 81. If the Settlement is voided or fails for any reason, Plaintiffs and Defendant will
28 have no further obligations under the Settlement, including any obligation by Defendant to pay

1 the Settlement Amount, or any amounts that otherwise would have been owed under this
2 Settlement.

3 82. If the Settlement is voided or fails for any reason, any costs incurred by the
4 Settlement Administrator shall be borne equally by Defendant and Plaintiffs, unless otherwise
5 specified in this Agreement.

6 **K. Other Terms**

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

11 84. Waiver. The waiver by one Party of any breach of this Agreement by another
12 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

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

1 86. No Defamatory Statements. Plaintiffs will not make, or encourage anyone else to
2 make, any defamatory or maliciously false statements or remarks about Defendant, any of its
3 employees, and/or any of its services; this restriction includes, but is not limited to, Plaintiffs
4 not making any such statements or remarks on Yelp, Glassdoor, LinkedIn, Facebook, other
5 social media, and other online forums.

6 87. Parties' Authority. The signatories hereto represent that they are fully authorized
7 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions
8 hereof.

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

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

23 90. No Admission. Defendant denies any and all liability to Plaintiffs and/or any
24 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
25 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
26 compromise the matters at issue in the Complaint to avoid further substantial expense and the
27 inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken
28 into account the uncertainty and risks inherent in litigation, and without conceding any infirmity

1 in the defenses that they have asserted or could assert against Plaintiffs, have determined that it
2 is desirable and beneficial that Plaintiffs' claims be settled in the manner and upon the terms
3 and conditions set forth in this Agreement.

4 91. Inadmissibility of Agreement. Whether or not the Court issues the Final
5 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,
6 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing
7 on the part of Defendant or any of the other Released Parties. Each of the Parties hereto has
8 entered into this Settlement Agreement with the intention of avoiding further disputes and
9 litigation with the attendant inconvenience and expenses. This Settlement Agreement is a
10 settlement document, and it, along with all related documents such as the notices, and motions
11 for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
12 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an
13 action or proceeding to approve the settlement, and/or interpret or enforce this Settlement
14 Agreement. The stipulation for class certification as part of this Settlement Agreement is for
15 settlement purposes only and if, for any reason the settlement is not approved, the stipulation
16 will be of no force or effect.

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

21 To the Settlement Class Members and Aggrieved Employees:

22 Mehrdad Bokhour
23 *mehrdad@bokhourlaw.com*
24 1901 Avenue of the Stars, Suite 450
25 Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

26 Michelle Eshaghian
27 *michelle@eshlegal.com*
28 1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (310) 531-8090

To Defendant:

Linda M. Moroney
lmoroney@grsm.com
Natalie B. Fujikawa
nfujikawa@grsm.com
275 Battery Street, Suite 2000
San Francisco, California 94111
Tel: (415) 875-3276

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

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

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

96. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and Plaintiffs and Defendant agree to seek the help of the mediator identified in this Agreement to resolve any dispute they are unable to resolve informally. During this period,

1 the Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any
2 legal action or other proceeding instituted by any person or entity other than Plaintiffs or
3 Defendant.

4 97. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment
5 pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure Section
6 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action over all
7 Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations of this
8 Agreement.

9 98. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b),
10 this Agreement is intended by the Parties to be, and shall be, enforceable, binding, and
11 admissible in a court of law.

12 99. Choice of Law. This Settlement Agreement shall be governed by and construed,
13 enforced and administered in accordance with the laws of the State of California, without regard
14 to its conflicts-of-law rules.

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

20 101. Binding On Assigns. This Settlement Agreement shall be binding upon and inure
21 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
22 successors, and assigns.

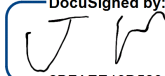
23 102. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
24 because the members of the Settlement Class are numerous, it is impossible or impractical to
25 have each Final Class Member execute this Settlement Agreement. The Notice will advise all
26 Settlement Class Members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

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

APPROVAL AND EXECUTION BY PARTIES:

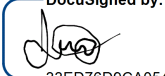
CLASS REPRESENTATIVES:

10/7/2021
Dated: October __, 2021

DocuSigned by:

2BFAEE46D52048F...

Jose A. Melgar Fuentes

10/7/2021
Dated: October __, 2021

DocuSigned by:

33ED76D9CA05484...

Luis Cartagena

DEFENDANT:

MAAS BROTHERS, INC.

Dated: October __, 2021

By: Kevin Maas
Title: CEO

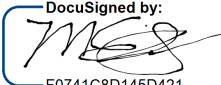
1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL:**

3 10/7/2021

4 Dated: October __, 2021

ESHAGHIAN LAW, P.C.

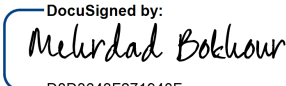
DocuSigned by:

F0741C8D145D421...

Michelle Eshaghian
Attorneys for Plaintiffs

10/7/2021

8 Dated: October __, 2021

BOKHOUR LAW GROUP, P.C.

DocuSigned by:

D8D3643F271940F...

Mehrdad Bokhour
Attorneys for Plaintiffs

14 **DEFENDANT'S COUNSEL:**

GORDON REES SCULLY MANSUKHANI, LLP

17 Dated: October __, 2021

Natalie B. Fujikawa
Attorneys for Defendant, Maas Brothers, Inc.