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Attorneys for Plaintiff
JOHN GRABER, on behalf of himself and all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

JOHN GRABER, on behalf of himself and all
others similarly situated, and on behalf of the
general public,

Plaintiff,

v.

N.N.A. Services, a California Corporation and
DOES 1 through 10, inclusive,

Defendants.

Case No. RG21101753

**JOINT STIPULATION AND CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

1 This Class and Representative Action Settlement Agreement and Stipulation (“Agreement”)
2 is made and entered into by Plaintiff John Graber (“Plaintiff” or “Class Representative”),
3 individually and as representative of the Class and alleged aggrieved employees, as defined below,
4 on the one hand, and Defendant NNA Services, LLC, erroneously identified as N.N.A. Services
5 (“Defendant” and together with “Plaintiff,” the “Parties”), on the other.

6 This Agreement is subject to the approval of the Court, and is made for the sole purpose of
7 attempting to consummate settlement of this Action on a class-wide and representative basis subject
8 to the following terms and conditions. As detailed below, in the event the Court does not enter an
9 order granting approval of the PAGA Settlement, as defined below, final approval of the Class
10 Settlement, as defined below, or the conditions precedent are not met for any reason, this
11 Agreement is void and is of no force or effect whatsoever.

12 NOW THEREFORE, in consideration of the promises and warranties set forth below, and
13 intending to be legally bound and acknowledging the sufficiency of the consideration and
14 undertakings set forth below, Plaintiff, individually, and as representative of the Class/alleged
15 aggrieved employees, and Defendant agree that the Action shall be, and is finally and fully
16 compromised and settled on the following terms and conditions:

17 **1. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

18 1.1. On or about June 14, 2021, Plaintiff filed a Private Attorneys General Act (“PAGA”)
19 action in the Superior Court of California, County of Alameda, entitled: *John Graber, on behalf of*
20 *himself and all others similarly situated, and on behalf of the general public, v. N.N.A. Services, a*
21 *California Corporation and Does 1 through 10, inclusive*, Case No. RG21101753 (the
22 “Complaint”). The Complaint was filed on behalf of allegedly aggrieved employees defined as
23 “Defendant N.N.A. SERVICES’ employees employed in the position of a Seminar Instructor” and
24 alleging violations of California Labor Code §§ 226.7, 512, 558, 510, 1194, 1194.2, 226(a), (e),
25 201-203, 204(a)(b), and 2802.

26 1.2. Prior to mediating the case on August 23, 2022, the Parties informally exchanged
27 information and documentation about *inter alia*: the number of current and former alleged
28 aggrieved employees who worked during the relevant time period; Defendant’s timekeeping, meal

1 period and rest break policies; electronic time and pay records for a sample of alleged aggrieved
2 employees; and other relevant information, including Plaintiff's personnel file, time, and payroll
3 records.

4 1.3. On August 23, 2022, the Parties participated in an all-day mediation with mediator
5 Kelly A. Knight, which included lengthy and fully informed negotiations. At the mediation, the
6 Parties principally settled the entire matter the same day. The Parties principally settled the PAGA
7 action and principally settled the Action on a class-wide basis as well, such that the settlement shall
8 cover all persons who were employed by Defendant as a Seminar Instructor or Live Scan Services
9 Technician at any time from June 14, 2017 to the earlier of either: (1) the date preliminary approval
10 is granted by the Court; or (2) November 30, 2022.

11 1.4. As part of this Settlement and in conjunction with obtaining approval of the
12 Settlement, Plaintiff shall file a First Amended Complaint to add allegations supporting a class
13 action complaint. Defendant shall cooperate, as necessary, to effectuate the amendment. It is the
14 understanding of the parties that this settlement and release will cover the claims in this case and
15 the amendment to the complaint.

16 1.5. The Parties memorialized the general terms of their settlement via a Memorandum
17 of Understanding. Defendant did not admit any liability whatsoever and entered into the
18 Memorandum of Understanding solely for the purposes of compromising and settling the Action.

19 1.6. The Parties believe this Settlement is a fair, adequate and reasonable settlement of
20 this Action and have arrived at this Settlement after lengthy, extensive arms-length negotiations,
21 facilitated by an experienced wage and hour class action mediator, taking into account all relevant
22 factors, present and potential. This Agreement shall not be construed in favor of or against any of
23 the Parties by reason of their participation in the drafting of this Agreement.

24 1.7. Defendant has denied and continues to deny each and all of the allegations, claims,
25 and contentions alleged by Plaintiff in the Action. Defendant has expressly denied and continues
26 to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements,
27 acts or omissions alleged in the Action. Defendant contends that it complied in good faith with
28 California wage and hour laws and has dealt legally and fairly with Plaintiff and Class Members.

Defendant further denies that, for any purpose other than settling the Action, these claims are appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further proceedings in the Action would be protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement in order to dispose of burdensome and protracted litigation, to permit the operation of Defendant's business without further expensive litigation and the distraction and diversion of its personnel with respect to matters at issue in the Action. Defendant has also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Action. Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled in the manner and upon the terms and conditions set forth in this Agreement.

1.8. Plaintiff, on behalf of himself and the Class, along with Defendant, and subject to the approval of the Court, stipulate that the Action will be compromised and settled pursuant to the terms and conditions set forth in this Agreement and that after the date of the Court's final approval of this Agreement, judgment shall be entered, subject to the continuing jurisdiction of the Court as set forth below, subject to the recitals set forth above which by this reference become an integral part of this Agreement, and subject to the following definitions, terms and conditions:

2. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Agreement are not specifically defined below, but are defined elsewhere in this Agreement, they are incorporated by reference into this definition section.

2.1 **"Action"** means the litigation titled *John Graber, on behalf of himself and all others similarly situated, and on behalf of the general public, v. N.N.A. Services, a California Corporation and Does 1 through 10, inclusive*, pending in the Superior Court of the State of California, County of Alameda, Case No. RG21101753, and all pleadings filed therein, including the First Amended Complaint that Plaintiff shall file as part of this Settlement and in conjunction with obtaining approval of the Settlement in order to add allegations supporting a class action complaint. It is the understanding and agreement of the parties that this settlement and release will cover the claims in this case and the amendment to the complaint.

2.2 “**Administrative Expenses**” include all costs and expenses associated with and paid to the Settlement Administrator, which are anticipated not to exceed \$10,000.00.

2.3 “**Agreement**” means this Joint Stipulation and Class and Representative Action Settlement Agreement and Release, including any attached exhibits.

2.4 “**Claims**” means all claims for wages and related penalties actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of himself and the Class Members, based on the facts alleged in the original, amended and/or operative complaint(s), including but not limited to alleged violations of Labor Code sections 226.7, 512, 558, 510, 1194, 1194.2, 226(a), 226(e), 226.3, 201-203, 204(a), 204(b), 2802, and the applicable Wage Order and for any and all claims that arose during the Class Period related to the following:

2.4.1 Any claims for unpaid compensation or compensation at the incorrect rate (including but not limited to overtime pay, double time pay, sick pay, reporting pay, etc.);

2.4.2 Any claims for failure to provide meal periods in accordance with the California Labor Code and/or applicable Wage Orders, including any claims regarding failure to pay premium pay at the correct rate;

2.4.3 Any claim for failure to authorize and permit rest periods in accordance with the applicable California Wage Orders or Labor Code, including any claims regarding failure to pay premium pay at the correct rate;

2.4.4 Any claim for failure to provide reimbursements for business related expenses;

2.4.5 Any claim for failure to pay wages timely;

2.4.6 Any claim for failure to provide all/ accurate information required to be on a wage statements or to maintain records required by the Labor Code;

2.4.7 Any claim brought under Business & Professions Code section 17000 et. seq based on the above; and

2.4.8 Any incorporated or related claims asserted through PAGA.

2.5 “**Class**” means all persons who were employed by Defendant as a Seminar Instructor or Live Scan Services Technician at any time from June 14, 2017 to the earlier of either: (1) the

1 date preliminary approval is granted by the Court; or (2) November 30, 2022 (“Class Members”).
2 Defendant has represented that there are 35 Class Members who worked 4,778 workweeks through
3 July 9, 2022.

4 2.6 “**Class Counsel**” means Roman Otkupman and Nidah Farishta of Otkupman Law
5 Firm, a Professional Corporation.

6 2.7 “**Class Counsel’s Fees and Expenses**” means the amount awarded to Class Counsel
7 by the Court to compensate them for their fees in prosecuting the Action not to exceed thirty-five
8 percent (35%) of the Maximum Settlement Amount, or \$52,500, plus up to \$15,000 in costs as
9 approved by the Court.

10 2.8 “**Class Members**” means the individuals in the Class.

11 2.9 “**Class Notices**” means the Notice of PAGA and Class Action Settlement, directed
12 to Class Members and PAGA Employees, as set forth in the form of **Exhibit A** attached hereto, or
13 as otherwise approved by the Court, which are to be mailed to Class Members and PAGA
14 Employees.

15 2.10 “**Class Period**” means June 14, 2017 through November 30, 2022 or the date upon
16 which the Court grants Preliminary Approval of this settlement, whichever is sooner.

17 2.11 “**Class Representative**” means Plaintiff John Graber.

18 2.12 “**Class Representative Enhancement**” means any additional monetary payment
19 provided to Plaintiff John Graber in his capacity as Class Representative, not to exceed \$7,500.00,
20 for his efforts and risks on behalf of the Class in the Action, as determined by the Court.

21 2.13 “**Class Settlement**” means the non-PAGA portion of the settlement embodied in
22 this Agreement, which is subject to the Court’s preliminary and final approval.

23 2.14 “**Complaint**” means the PAGA Complaint and the First Amended Class Action
24 Complaint filed in the Action by Plaintiff, in the Superior Court of the State of California, County
25 of Alameda.

26 2.15 “**Court**” means the Superior Court of the State of California, County of Alameda.

27 2.16 “**Defendant**” means NNA Services, LLC, erroneously identified as N.N.A.
28 Services.

2.17 “**Defense Counsel**” or “**Counsel for Defendant**” means Stacey E. James, Craig G. Staub, and Melanie Rollins of Littler Mendelson, P.C.

2.18 “**Effective Date**” of this Agreement means the date when all of the conditions set forth in Paragraph 6.8 have occurred.

2.19 “**Employee’s Taxes**” means the employee’s share of any and all applicable federal, state or local payroll taxes on the portion of any Participating Class Member’s Individual Settlement Payment that constitutes wages. The Employee’s Taxes will be deducted from their Individual Settlement Shares.

2.20 “**Employer’s Taxes**” means and refers to the employer’s share of corporate federal, state and/or local payroll taxes that is owed on the portion of any Participating Class Member’s Individual Settlement Payment that constitutes wages. The Employer’s Taxes shall be paid separate and apart from the Maximum Settlement Amount.

2.21 “**Final Approval Hearing**” means the hearing held to determine whether the Court will enter a Final Approval Order finally approving this Settlement.

2.22 “**Final Approval Order**” means the Court’s entry of an Order finally approving and granting final judgment of this Settlement.

2.23 “**Individual Settlement Payment(s)**” means each Participating Class Member’s or PAGA Employee’s respective share of the Net Settlement Amount. Individual Settlement Payments will be determined by the calculations provided in this Agreement.

2.24 “**Mailing Date**” means the date that the Settlement Administrator initially mails by Regular United States Mail the Class Notices to the Class Members and the PAGA Employees.

2.25 “**Maximum Settlement Amount**” means the agreed-upon non-reversionary settlement amount totaling \$150,000.00 to be paid by Defendant in full settlement of the Released Claims and the PAGA Claims asserted in the Action, inclusive of all payments to Class Members, attorneys’ fees, costs and expenses directly related to the Action, which includes all such fees and costs incurred to date, as well as all such fees and costs incurred in documenting the Settlement, administering the Settlement (including the Administrative Expenses), the Class Representative Enhancement, and the PAGA Payment. If, as of the end of the Class Period, the number of Class

workweeks exceeds 4,778 by more than 10%, Defendant shall have the sole option to: (i) increase the Class Settlement proportionally per additional workweek (i.e., if there was a 20% increase in the number of work weeks worked by Class Members, Defendant would agree to increase the Class Settlement by 10%); or (ii) end the Class or Settlement period as of the date that the number of Class workweeks worked reaches 10% above estimated amounts.

2.26 “**Net Settlement Amount**” means the portion of the Maximum Settlement Amount available for distribution to Participating Class Members after deduction of Class Counsel's Fees and Expenses, the Class Representative Enhancement, the Administrative Expenses, and the PAGA Payment.

2.27 “**Notice of Objection**” means a written request by a Class Member to object to this Settlement, which must be completed and filed or mailed in the manner set forth in this Agreement and the Notice of Settlement.

2.28 “**Notice Period**” means a sixty (60) calendar day period which begins on the Mailing Date, with up to a 14-day extension of that response period for re-mailed Class Notices. A Class Member who wishes to opt out of the settlement must complete an Opt-Out Request and return it to the Settlement Administrator with a postmark dated during the Notice Period to be valid and effective. A Class Member who wishes to object to the settlement in writing must submit any written objection to the Settlement Administrator during the Notice Period to be considered. The Settlement Administrator shall be required to authenticate written objections via a declaration and provide copies to Class Counsel and Defendant’s Counsel. A written notice disputing the number of Qualifying Workweeks must be returned to the Settlement Administrator with a postmark dated during the Notice Period to be considered by the Settlement Administrator when calculating that person’s Individual Settlement Payment.

2.29 “**Opt-Out Request**” means a written request from a Class Member requesting exclusion from the Class in accordance with the terms of the Agreement and Class Notices.

2.30 “**PAGA Claims**” means all disputes, claims, and/or causes of action set forth in Paragraph 5.5.

2.31 “**PAGA Employee**” means Class Members employed during the PAGA Period.

1 PAGA Employees cannot opt out of the settlement.

2 2.32 **“PAGA Payment”** means the payment to the State of California Labor &
3 Workforce Development Agency (“LWDA”) and the PAGA Employees in settlement of all claims
4 for PAGA penalties.

5 2.33 **“PAGA Payment Check”** means the check issued to each PAGA Employee for his
6 or her share of the PAGA Payment.

7 2.34 **“PAGA Period”** means the period beginning on March 9, 2020 through November
8 30, 2022, or the date upon which the Court grants Preliminary Approval of this Settlement,
9 whichever is sooner.

10 2.35 **“PAGA Settlement”** means the PAGA portion of the Maximum Settlement
11 Amount embodied in this Agreement, which is subject to Court’s approval. The Parties apportion
12 \$15,000.00 of the Maximum Settlement Amount to the PAGA Settlement. 75% of the PAGA
13 Settlement will be paid to the State of California LWDA. 25% of the PAGA Settlement shall be
14 distributed *pro rata* to all PAGA Employees.

15 2.36 **“PAGA Pay Period Value”** means the value of each PAGA Pay Period, as
16 determined by the Settlement Administrator, by dividing 25% of the PAGA Settlement by the Total
17 PAGA Pay Periods.

18 2.37 **“Participating Class Member”** means each Class Member who has not timely and
19 properly opted out of the Class Settlement pursuant to Paragraph 4.6 of this Agreement.

20 2.38 **“Parties”** means Plaintiff, individually and on behalf of all Class Members and all
21 PAGA Employees, and Defendant.

22 2.39 **“Plaintiff”** means John Graber.

23 2.40 **“Preliminary Approval Order and Order Approving PAGA Settlement”** means
24 an order from the Court: (1) preliminarily approving the Class Settlement; and (2) approving the
25 PAGA Settlement.

26 2.41 **“Qualifying Pay Periods”** means the number of pay periods that PAGA Employees
27 worked for Defendant as non-exempt employees during the PAGA Period.

28 2.42 **“Qualifying Workweeks”** means the number of weeks that Class Members worked

1 for Defendants as non-exempt employees during the Class Period.

2 2.43 **“Released Claims”** or **“Settled Claims”** mean all disputes, claims, and/or causes
3 of action set forth in Paragraph 5.4.

4 2.44 **“Released Parties”** means (i) Defendant; (ii) each of Defendant’s past, present and
5 future parents, subsidiaries and affiliates including, without limitation any corporation, limited
6 liability company, partnership, trust, foundation and non-profit entity which controls, is controlled
7 by, or is under common control with Defendant including NNA Services, Inc.; (iii) the past, present
8 and future shareholders, directors, officers, agents, employees, attorneys, insurers, member,
9 partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries,
10 benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (iv)
11 any individual or entity which could be jointly liable with any of the foregoing.

12 2.45 **“Settlement”** means the settlement of the Action effectuated by this Agreement
13 between the Parties (including the Class Settlement and PAGA Settlement).

14 2.46 **“Settlement Administrator”** means Simpluris, who is an experienced, neutral
15 third-party administrator that is acceptable to the Parties and who the Parties will seek to have
16 approved by the Court. The Settlement Administrator shall be responsible for administration of the
17 Settlement and related matters. The Settlement Administrator shall be paid from the Maximum
18 Settlement Amount, as approved by the Court.

19 2.47 **“Settlement Period”** means the period from June 14, 2017 through November 30,
20 2022 or the date upon which the Court grants Preliminary Approval of this settlement, whichever
21 is sooner.

22 2.48 **“Settlement Proceeds Distribution Deadline”** means a date that is forty business
23 (40) days after the Effective Date.

24 2.49 **“Total PAGA Pay Periods”** means the total number of pay periods that each
25 PAGA Employee worked during the PAGA Period as calculated by Defendant. Defendant
26 represents there are 1,108 PAGA Pay Periods worked through July 9, 2022.

27 2.50 **“Total Class Workweeks”** means the total number of Workweeks that all
28 Participating Class Members worked during the Class Period. Any Participating Class Member

with less than one complete week of employment will be credited with one workweek. Defendant represents there are 4,778 Workweeks worked through July 9, 2022.

3. CLASS CERTIFICATION AND CLASS COUNSEL

3.1 Class Certification. Solely for the purposes of this Settlement, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the following class as defined in Paragraph 2.5: all persons who were employed by Defendant as a Seminar Instructor or Live Scan Services Technician during the Class Period.

3.2 For settlement purposes only, the Parties agree that the Class, as defined in Paragraph 2.5 herein, which will run from June 14, 2017 through November 30, 2022 or the date upon which the Court grants Preliminary Approval of this Settlement, whichever is sooner, may be certified in the Action. The Parties are not certifying any PAGA claims. In support of this Agreement, Plaintiff will request that the Court certify for settlement purposes the Class as to all non-PAGA claims that have been asserted, which Defendant shall not oppose or object to.

3.3 The Parties intend their Class Settlement to be contingent upon the preliminary and final approval of each and every term of this Agreement, without material or substantive modification, unless the Parties agree to such modification. Except as expressly set forth in this Agreement, if the Court does not so approve this Agreement, the Parties intend this Agreement to become null and void, and unenforceable, in which event the settlement terms set forth herein, including any modifications made with the consent of the Parties, and any action taken or to be taken in connection with this Agreement shall be terminated and shall become null and void and have no further force or effect, and the Class certified pursuant to this Agreement will be decertified for all purposes.

3.4 Appointment Of Class Representative. Solely for the purposes of this Settlement, the Parties stipulate and agree that Plaintiff John Graber shall be appointed as a representative for the Class.

3.5 Appointment Of Class Counsel. Solely for the purposes of this Settlement, the Parties stipulate and agree that Roman Otkupman of Otkupman Law Group, a Law Corporation, 5743 Corsa Ave., Suite 123, Westlake Village, CA 91362 shall be appointed as Class Counsel for

the Class.

4. NOTICE AND SETTLEMENT ADMINISTRATION PROCESS

4.1 Identification of Class Members. Within fourteen (14) days after entry of the Preliminary Approval of Settlement, Defendant shall provide to the Settlement Administrator a list of Class Members that includes: (1) the names, last known addresses, last known personal telephone numbers (if known), and social security numbers of each individual; and (2) the number of Qualifying Workweeks worked during the Class Period. Defendant agrees to provide the list in an electronic format reasonably acceptable to the Settlement Administrator. Defendant shall provide this list to the Settlement Administrator by secure file transfer. The Settlement Administrator will keep the list confidential, use it only for the purposes described herein, and return it to Defendant upon completion of the settlement administration process. Notwithstanding the confidentiality provision, the Settlement Administrator is authorized to provide all counsel with an anonymized spreadsheet showing the number of Qualifying Workweeks worked during the Class Period to permit Class Counsel and Defendant's Counsel to review the Workweek data and payment calculations for consistency.

4.2 Individual Settlement Payment Calculation. Based on the information in the PAGA Employee/Class Member list and the formula set forth in Paragraph 7 below, the Settlement Administrator shall promptly calculate the estimated Individual Settlement Payment for every Class Member/PAGA Employee, to be included in the individualized Class Notices to be sent to that Class Member, and shall prepare and send a spreadsheet setting forth those calculations to Defense Counsel no fewer than five (5) days before mailing the Class Notices to Class Members. The Class Notices will inform each Class Member of his/her right to do nothing, dispute the number of Qualifying Workweeks and/or Qualifying Pay Periods worked, opt out of the non-PAGA payment and release of non-PAGA claims, or to object to the non-PAGA payment and release of non-PAGA claims. It will also inform Class Members that if they first request exclusion from, and opt out of, the Class Settlement and then object in writing, the written objections would not be considered valid and that if the Class Members submit any written objection and then request exclusion from, and opt out of, the Class Settlement, the Class Members would be deemed to have waived their

1 objection.

2 4.3 PAGA Payment Check. Payment to the PAGA Employees of their portion of the
3 PAGA Payment shall be paid to each of them by way of a single check (“PAGA Payment Check”).
4 The PAGA Payment Check represents the portion of the civil penalties awarded directly under
5 PAGA.

6 4.4 Notice Procedure. Within ten (10) days after receipt of the list of Class
7 Members/PAGA Employees described in Paragraph 4.1 above, the Settlement Administrator shall
8 mail the Class Notices to each Class Member/PAGA Employee whose address information is
9 known. Prior to this mailing, the Settlement Administrator shall conduct a National Change of
10 Address check as to each address. The mailing shall be sent by first-class U.S. Mail, postage pre-
11 paid. The date that the Settlement Administrator mails the Class Notices is the Mailing Date. It
12 shall be conclusively presumed that each and every Class Member whose Class Notice is not
13 returned to the Settlement Administrator as undeliverable within thirty (30) calendar days after the
14 Mailing Date has received the Class Notices.

15 4.4.1 The Settlement Administrator shall promptly re-mail any Class Notice
16 returned by the Post Office with a forwarding address. It shall be conclusively presumed that those
17 Class Members/PAGA Employees whose re-mailed Class Notice are not returned to the Settlement
18 Administrator as undeliverable within fifteen (15) calendar days after re-mailing has received the
19 Class Notice.

20 4.4.2 If any Class Notice is returned as undeliverable with no return address, the
21 Settlement Administrator will perform one search using the social security number of any Class
22 Member/PAGA Employees for a more current address. If an address is not found, no further action
23 is required. It shall be conclusively presumed that those Class Members/PAGA Employees whose
24 re-mailed Class Notice are not returned to the Settlement Administrator as undeliverable within
25 fifteen (15) calendar days after re-mailing has received the Class Notice.

26 4.4.3 Class Counsel shall provide to the Court, at or before the Final Approval
27 Hearing, a declaration from the Settlement Administrator confirming that the Class Notices were
28 mailed to all Class Members as required by this Agreement, as well as any additional information

1 Class Counsel and Defense Counsel both deem appropriate to provide to the Court, including
2 identification of any Class Members who opt out of the Settlement and authentication of any written
3 objections submitted timely to the Settlement Administrator.

4 4.4.4 The Class Notice shall state the formula to be used in calculating Individual
5 Settlement Payments as calculated by the Settlement Administrator. A Participating Class Member
6 may seek to challenge his or her estimated Individual Settlement Payment set forth in his or her
7 Class Notice. Such challenges must: (i) be in writing; (ii) state the full name of the Class Member
8 seeking the challenge; (iii) include a statement that the Class Member is seeking to challenge his
9 or her estimated Individual Settlement Payment set forth in the Class Notice; (iv) state the number
10 of Qualifying Workweeks that the Class Member believes he or she has worked; (v) be signed by
11 the Class Member seeking the challenge; and (vi) be mailed to the Settlement Administrator with
12 a postmark date on or before the expiration of the Notice Period. A Participating Class Member
13 challenging his or her Individual Settlement Payment may produce documentary evidence to the
14 Settlement Administrator for consideration and/or challenge. The Settlement Administrator will
15 resolve the challenge and make a final and binding determination without hearing or right of appeal.
16 The personnel records, including payroll records, of Defendant shall be considered by the
17 Settlement Administrator as the presumptive best evidence of the number of Qualifying
18 Workweeks worked. The Settlement Administrator may provide copies of any documentary
19 evidence produced as part of a challenge to Defendant to request confirmation from Defendant that
20 the documentary evidence appears to accurately reflect additional Qualifying Workweeks worked
21 by the challenging Class Member.

22 The Class Notice shall explain that if a Class Member does not opt out of the Class
23 Settlement, such Class Member will receive the Individual Settlement Payment pursuant to the
24 terms of this Agreement. The Parties intend that reasonable means be used to maximize the
25 probability that all Class Members shall receive the Class Notice.

26 The Class Notice shall provide the date and location of the Final Approval hearing. If the
27 date and/or location of the Final Approval Hearing should change, the Settlement Administrator
28 will give notice by posting the change on the settlement website. The Class Notice shall also

1 provide information about telephonic or videoconference appearances if those are required by the
2 Court at the time of the Final Approval hearing.

3 4.4.5 Within ten (10) days after the close of the Notice Period, the Settlement
4 Administrator will provide Defense Counsel with a report by name and last four digits of Social
5 Security Number listing the amount of all Individual Settlement Payments to be made to the
6 Participating Class Members, a list by name of all Class Members who timely opted out under
7 Paragraph 4.6, below, and a list by name of all Class Members who timely objected under Paragraph
8 4.8 below. That same report shall be provided to Class Counsel with the names of Participating
9 Class Members removed, but the identities of all Class Members who timely opted out under
10 Paragraph 4.6, below, and a list by name of all Class Members who timely objected under Paragraph
11 4.8 below, shall be included in the report to Class Counsel.

12 4.5 Class Settlement Payment. Any Class Member who wishes to become a
13 Participating Class Member and receive an Individual Settlement Payment must not opt out of the
14 Class.

15 4.6 Opt-Out Procedure. Any Class Member who wishes to be excluded from the Class
16 Settlement may seek exclusion under this Paragraph. However, no PAGA Employee can seek
17 exclusion from the PAGA portion of the settlement. Unless a Class Member timely and properly
18 opts out of the Class Settlement described in this Agreement, he or she shall be a Participating Class
19 Member and shall be bound by all the terms and conditions of this Agreement, and shall also be
20 bound by the Court's Order enjoining all Participating Class Members from pursuing, or seeking to
21 reopen, any of the Settled Claims against the Released Parties. A Class Member will not be entitled
22 to opt out of the Class Settlement established by this Agreement unless he or she submits a timely
23 Opt-Out Request as provided in this Paragraph. An Opt-Out Request must: (i) be in writing; (ii)
24 state the full name of the Class Member seeking exclusion; (iii) include a statement that the Class
25 Member seeking exclusion from the Settlement requests exclusion from the Class and does not
26 wish to participate in the Settlement; (iv) be signed by the Class Member seeking exclusion from
27 the Settlement; and (v) be mailed to the Settlement Administrator with a postmark date on or before
28 the expiration of the Notice Period.

1 The Opt-Out Request must be completed by the Class Member seeking exclusion from the
2 Class Settlement. Any Class Member who properly submits a timely, complete and valid Opt-Out
3 Request using this procedure will not be entitled to an Individual Settlement Payment and will not
4 be bound by the Settlement or have any right to object, appeal or comment thereon, except that a
5 Class Member that is also a PAGA Employee will be bound by the release of PAGA Claims set
6 forth in this Agreement and will be issued the PAGA Employee's share of the PAGA Payment.

7 PAGA Employees will not have the opportunity to opt out or object to the PAGA Payment
8 and/or release of PAGA Claims although the PAGA Payment will be subject to Court approval.

9 4.6.1 Upon receipt of any Opt-Out Request within the Notice Period, the
10 Settlement Administrator shall review the request to verify the information contained therein, and
11 to confirm that the request complies with the requirements of this Agreement.

12 4.6.2 Any Class Member who fails to submit a timely, complete and valid Opt-
13 Out Request shall be barred from opting out of the Settlement. The Settlement Administrator shall
14 not review or consider any Opt-Out Request postmarked after the end of the Notice Period. It shall
15 be conclusively presumed that, if an Opt-Out Request is not postmarked on or before the end of the
16 Notice Period, or is not received by the Settlement Administrator, the Class Member did not make
17 the request in a timely or valid manner. Under no circumstances shall the Settlement Administrator
18 have the authority to extend the deadline for Class Members to submit an Opt-Out Request.

19 4.6.3 The Settlement Administrator shall give Class Counsel and Defense Counsel
20 a weekly update on the number of Opt-Out Requests received.

21 4.7 Excessive Opt-Out Requests. If ten percent (10%) or more of Class Members timely
22 opt out of the Class Settlement, Defendant shall have the option to withdraw from the Settlement
23 within twenty calendar (20) days after receiving from the Settlement Administrator the final list of
24 opt-outs. Defendant agrees to meet and confer in good faith with Class Counsel before withdrawing
25 from the Settlement. In the event that Defendant elects to withdraw from the Settlement, Defendant
26 shall provide written notice of such rescission to Class Counsel. Such withdrawal shall have the
27 same effect as a termination of this Agreement for failure to satisfy a condition of settlement, and
28 the Agreement shall become null and void and have no further force or effect, and the Class certified

pursuant to this Agreement will be decertified for all purposes. If Defendant chooses to terminate this Agreement under this provision, it shall be responsible to pay the Settlement Administrator's fees and costs incurred to that point. If Defendant chooses to terminate this Agreement under this provision, the Parties may re-negotiate settlement terms.

4.8 Objections to Class Settlement. Any Participating Class Member may object to the Class Settlement in writing, in person at the Final Approval hearing, or through an attorney obtained at the expense of the objecting Participating Class Member. Participating Class Members who wish to object in writing must send their written objections to the Settlement Administrator only by the close of the Notice Period. The Settlement Administrator must promptly forward all written objections received by the close of the Notice Period to all counsel. An objection must state the specific grounds on which it is being made and all supporting facts. The Class Notice will state in substance:

Any member of the settlement Class who has not opted out can ask the Court to deny approval of the settlement by submitting an objection. You can't ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no additional settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to the proposed settlement in writing, except you may not object to the PAGA Payment and release of PAGA Claims. You may also appear at the Final Approval Hearing, either in person or through your attorney. If you appear through your own attorney, you are responsible for paying that attorney. You may appear and orally object regardless of whether you submitted a written objection. All written objections and supporting papers must: (a) clearly identify the case and number (*John Graber v. N.N.A. Services*, Case No. RG21101753); (b) be submitted to the Settlement Administrator; and (c) be postmarked on or before [insert date of the close of the Notice Period]. Class Members who fail to timely mail such a written statement of objection shall be foreclosed from making any written objection to this Settlement.

Class Members who fail to timely submit a written statement of objection shall be foreclosed from making any written objection to this Settlement. Only Participating Class Members may object to the Class Settlement. Class Members may appear at the Final Approval Hearing and object orally regardless of whether he/she submits a written objection. This Paragraph shall be strictly applied and enforced. Failure to comply with its terms shall render an objection ineffective and waived.

4.9 Funding and Distribution of Settlement. Defendant shall deposit the Maximum

1 Settlement Amount plus its share of the Employer's Taxes with the Settlement Administrator within
2 10 business days after the Court's Order granting final approval and dismissing all claims asserted
3 in *John Graber v. N.N.A. Services*, Case No: RG21101753 with prejudice becomes final and is no
4 longer appealable. For purposes of this Agreement, "becomes final and is no longer appealable"
5 shall mean upon the later of: (i) the day after the last date by which a notice of appeal to the
6 applicable Court of Appeal of the final approval order may be timely filed, and none is filed; (ii) if
7 an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or otherwise,
8 the day after the last date for filing a request for further review of the order approving the settlement
9 passes, and no further review is requested; or (iii) if an appeal is filed and there is a final disposition
10 by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the order
11 approving the Settlement is requested, the day after the review is finally dismissed or denied with
12 prejudice and/or no further review of the order can be requested. The delivery of the Maximum
13 Settlement Amount to the Settlement Administrator plus its share of Employer's Taxes shall
14 constitute full and complete discharge of the entire obligation of Defendant under this Agreement.
15 Once Defendant has made such payments, Defendant will be deemed to have satisfied all terms and
16 conditions under this Agreement, shall be entitled to all protections afforded to Defendant under
17 this Agreement, and shall have no further obligations under the terms of the Agreement regardless
18 of what occurs with respect to those sums, regardless of whether the Individual Settlement
19 Payments are actually received and/or are negotiated by Class Members. Additionally, no Released
20 Party shall have any further obligation or liability to the Plaintiff, PAGA Employees or Class
21 Members under this Agreement.

22 4.9.1 The distribution of the Individual Settlement Payments to Participating Class
23 Members/PAGA Employees shall occur on the Settlement Proceeds Distribution Deadline. The
24 Settlement Administrator shall be deemed to have timely distributed all such payments to the Class
25 if it places in the mail Individual Settlement Payments for all Participating Class Members and the
26 PAGA Payments to the PAGA Employees and the State of California LWDA by the applicable
27 deadlines set forth in this Agreement or by the deadlines set by the Court. No person shall have any
28 claim against the Settlement Administrator, Defendant, Class Counsel, Defense Counsel, or any

1 other agent designated by the Plaintiff or Defendant based upon the distribution of Individual
2 Settlement Payments and the PAGA Payments made substantially in accordance with this
3 Agreement or further orders of the Court.

4 4.9.2 Any settlement checks that are not claimed or not negotiated within 180 days
5 after distribution by the Settlement Administrator shall be void. Any funds not distributed after the
6 expiration of the settlement checks shall be cancelled and the proceeds shall be sent to the State of
7 California Controller's Office to be held as unclaimed property in the name of the Class Member
8 who is the payee of the check or to a *cy pres* chosen by the Parties.

9 4.9.3 Except as otherwise stated in this Agreement, the Settlement Administrator's
10 distribution of Class Counsel's Fees and Expenses and the Class Representative Enhancement from
11 the Maximum Settlement Amount shall occur on the Settlement Proceeds Distribution Deadline.
12 Upon such payment, Defendant, the Released Parties, Defense Counsel, and the Settlement
13 Administrator shall have no further liability or responsibility to Plaintiff, Class Counsel or to any
14 vendors or third parties employed by the Plaintiff or Class Counsel.

15 4.9.4 Defendant shall not be obligated to make any payments contemplated by this
16 Agreement until the conditions set forth in this Agreement occur.

17 **5. RELEASE PROVISIONS**

18 5.1 Non-Admission of Liability. The Parties enter into this Agreement to resolve the
19 dispute that has arisen between them and to avoid the burden, expense and risk of continued
20 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that
21 it has violated any federal, state, or local law; violated any regulations or guidelines promulgated
22 pursuant to any statute or any other applicable laws, regulations or legal requirements or engaged
23 in any unlawful conduct with respect to the Plaintiff or any Class Member and/or PAGA Employee.
24 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected
25 with it, shall be construed as an admission or concession by Defendant of any such violations or
26 failures to comply with any applicable law. Except as necessary in a proceeding to enforce the
27 terms of this Agreement, this Agreement and its terms and provisions shall not be offered or
28 received as evidence in any action or proceeding to establish any liability or admission on the part

1 of Defendant or to establish the existence of any condition constituting a violation of, or a non-
2 compliance with, federal, state, local or other applicable law.

3 5.2 Entry of Judgment. Subject to final Court approval and the conditions specified in
4 this Agreement, the approval of the Settlement shall result in an entry of judgment and retention of
5 the case for enforcement purposes.

6 5.3 Conditional Nature Of Stipulation For Certification. Solely for the purposes of this
7 Settlement, the Parties stipulate and agree to the certification of the Claims asserted on behalf of
8 the Class. Should, for whatever reason, the Settlement not become effective, the fact that the Parties
9 were willing to stipulate to certification of the Action as part of the Settlement shall have no bearing
10 on, and shall not be admissible in connection with, the issue of whether the Action, or any claim or
11 class, should be certified in a non-Settlement context in this Action or in any other lawsuit.
12 Defendant expressly reserves its right to oppose claim or class certification in this or any other
13 action should this Settlement not become effective.

14 5.4 Release of All Settled Claims. On the later of the Effective Date or the full funding
15 of the Settlement as set forth in Paragraph 4.9 above, and to the maximum extent permitted by law,
16 Plaintiff and all Class Members who do not timely and properly opt-out hereby do, and shall be
17 deemed to have fully, finally, and forever released, settled, compromised, relinquished and
18 discharged any and all of the Released Parties of and from all of the following claims, demands,
19 rights, liabilities and causes of action that were asserted in the operative complaint in the Action or
20 that could have been asserted based on the claims and factual allegations in the operative complaint
21 in the Action, excluding the PAGA Claim but including (1) any claims, demands, rights, liabilities
22 and causes of action for damages, interest, attorney's fees and costs, injunctive relief, declaratory
23 relief, restitution, or fraudulent business practices based on unpaid wages (including but not limited
24 to minimum wages, straight time wages, and overtime pay), failure to provide meal periods, failure
25 to permit rest breaks, failure to reimburse business expenses, failure to maintain accurate records;
26 failure to furnish accurate wage statements, and failure to pay all wages during employment and at
27 the time of termination; and (2) any claims, demands, rights, liabilities and causes of action for
28 damages, interest, attorney's fees and costs, injunctive relief, declaratory relief, restitution, or

1 fraudulent business practices under California Labor Code sections 201 through 204, 210, 212,
2 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
3 2802, and related provisions contained in the California Wage Orders; and the California Business
4 and Professions Code predicated on such Labor Code sections and California Wage Orders,
5 including but not limited to Business and Professions Code section 17200 *et seq.* With respect to
6 the PAGA Claim, all PAGA Employees, regardless of whether they opt-out of the Class Settlement,
7 shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and
8 discharged any and all of the Released Parties of and from the PAGA Claim based in whole or in
9 part on the factual or legal allegations and/or claims in the Complaint and/or Plaintiff's March 9,
10 2021 LWDA Letter. All claims set forth in this Paragraph shall be collectively referred to as the
11 "Released Claims" or "Settled Claims."

12 5.5 Release of PAGA Claims. Upon the Court's approval of the PAGA Payment and
13 this release of PAGA Claims, Plaintiff and the PAGA Employees and all persons purporting to act
14 on the PAGA Employees' behalf or purporting to assert a claim under or through them, hereby do
15 and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished
16 and discharged any and all of the Released Parties of and from any and all PAGA claims premised
17 in whole or in part on any of the claims set forth in sections 5.4 above that arose at any time from
18 March 9, 2020 (collectively, the "PAGA Claims") through November 30, 2022 or the date upon
19 which the Court grants Preliminary Approval of this Settlement, whichever is sooner. The PAGA
20 Employees will be issued a check for their share of the PAGA Payment and will not have the
21 opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims set
22 forth in this Paragraph. The PAGA Employees are bound by the release of the PAGA Claims
23 regardless of whether they cash their PAGA Payment Check.

24 5.6 Communication to the Class. The Parties agree for settlement purposes only that,
25 because the Class Members are so numerous, it is impossible or impracticable to have each Class
26 Member execute this Agreement. Accordingly, the Class Notices will advise all Class Members of
27 the binding nature of the release of claims and such notices shall have the same force and effect as
28 if the Agreement were executed by each Class Member.

1 5.7 Representation by Plaintiff. The Plaintiff and Class Counsel represent, covenant,
2 and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported
3 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
4 action, cause of action, or rights herein released and discharged, except as set forth herein.

5 5.8 Plaintiff's Complete And General Release. As to Plaintiff only, in exchange for the
6 consideration set forth in this Agreement, including the Class Representative Enhancement,
7 Plaintiff, for himself and his heirs, successors and assigns, does hereby waive, release, acquit and
8 forever discharge the Released Parties, from any and all claims, actions, charges, complaints,
9 grievances and causes of action, of whatever nature, whether known or unknown, which existed or
10 occurred on or before Preliminary Approval, including but not limited to, and specifically and
11 expressly to the maximum extent permitted by law, any claims against Defendant and the Released
12 Parties, occurring prior to Preliminary Approval, arising out of or related to violations of any federal
13 or state employment discrimination laws, including claims arising out of or related to violations of
14 the provisions of the California Labor Code; the California Civil Code; the California Government
15 Code; California Wage Orders, the California Business & Professions Code, including California
16 Business & Professions Code Section 17200 *et seq.*; PAGA; state and federal wage and hour laws;
17 breach of contract; fraud; misrepresentation; common counts; unfair competition; unfair business
18 practices; negligence; defamation; infliction of emotional distress; and any other state or federal
19 law, rule, or regulation, excepting Plaintiff's individual non-wage and hour claims, which are
20 subject to a different settlement agreement. Plaintiff also waives any and all rights conferred upon
21 him under Section 1542 of the California Civil Code, which provides as follows:

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

26 This release does not include any pending claims for workers' compensation benefits that Plaintiff
27 may have against Defendant, or any other claim that cannot be released by law. Any Class
28 Representative Enhancement approved by the Court shall be paid to the Class Representative from

1 the Maximum Settlement Amount, and shall be in addition to any distribution to which he may
2 otherwise be entitled as a Class Member and PAGA Employee. The Class Representative
3 Enhancement shall not be considered wages, and Settlement Administrator shall issue Plaintiff a
4 Form 1099 reflecting such payment.

5 5.9 No Pending Or Future Lawsuits By Plaintiff. Other than this Action, Plaintiff
6 represents that he does not have any pending lawsuits, administrative complaints or charges against
7 Defendant or the Released Parties in any local, state or federal court or administrative agency,
8 excepting Plaintiff's individual action entitled *John Graber, an individual, v. N.N.A. Services, a*
9 *California Corporation and Does 1 through 10, inclusive*, Case No. RG21108706, filed with the
10 Superior Court of California, County of Alameda. Plaintiff further acknowledges that all claims
11 raised therein, if any, shall be fully and finally extinguished by virtue of this Settlement Agreement
12 and the Court's Final Approval Order. Plaintiff further represents that he will not bring any action
13 in the future in which he seeks to recover any damages from Defendant or the Released Parties
14 relating to or arising from Plaintiff's employment, other than an action to enforce his rights under
15 this Settlement Agreement.

16 5.10 Settlement Approval And Implementation Procedures. As part of this Settlement,
17 the Parties agree to the following procedures for obtaining the Court's Preliminary Approval of the
18 Settlement, notifying Class Members of the Settlement, obtaining the Court's Final Approval of
19 the Settlement, and processing Individual Settlement Payments.

20 5.11 Release of Claims by Class Counsel. Upon receipt of Class Counsel's Fees and
21 Expenses, as ordered by the Court on final approval of the Class Settlement, Class Counsel shall
22 fully and finally release Defendant and the Released Parties from any and all claims for attorneys'
23 fees and expenses arising from the Action and any claims released by the Plaintiff and Class
24 Members related to the action, whether known and unknown, whether under federal, state and/or
25 local law, statute, ordinance, regulation, common law, or other source of law. Class Counsel's
26 Released Claims and PAGA Claims include, but are not limited to, claims for attorneys' fees and
27 expenses arising from or dependent on the California Civil Code, the California Code of Civil
28 Procedure, the California Labor Code; the Wage Orders of the California Industrial Welfare

Commission; California Business and Professions Code sections 17200, *et seq.*; California Labor Code sections 2698, *et seq.*; the California common law of contract and tort, and the Fair Labor Standards Act.

5.12 Labor Code Sections Do Not Apply To Releases. The Parties agree that California Labor Code sections 206.5 and 2804 do not invalidate any provision of this Agreement, because among other things, the claims and Released Claims and PAGA Claims are disputed and contested, and the Settlement was bargained for at arms' length and approved by the Court.

6. COURT APPROVAL AND EFFECTIVE DATES

6.1 Motions Seeking Approval of Settlement and Order. Upon execution of this Agreement, Plaintiff shall file a motion in the Action requesting that the Court enter a Preliminary Approval Order as follows:

6.1.1 Approving, contingent upon Final Approval of the Class Settlement, the PAGA Settlement, including the PAGA Payment, distribution plan of the PAGA Payment, and the release of the PAGA Claims set forth in this Agreement and preliminarily approving for settlement purposes only the remaining portions of the proposed Settlement;

6.1.2 Preliminarily approving the appointment of the Plaintiff as representative of the Class for settlement purposes only;

6.1.3 Preliminarily approving the appointment of Class Counsel as counsel for the Class for settlement purposes only;

6.1.4 Appointing and approving the Settlement Administrator as chosen by the Parties and approved by the Court, to administer the claims and settlement payment procedures required by this Agreement;

6.1.5 Approving the form of the Class Notices, and requiring that individualized Class Notice be sent to Class Members;

6.1.6 Approving the plan for the provision of notice to Class Members, as stated herein and in the Class Notices;

6.1.7 Scheduling the Final Approval Hearing for consideration of class

1 certification for settlement purposes and final approval of this Agreement;

2 6.1.8 Approving the procedure for Class Members to challenge the estimated
3 Individual Settlement Payment set forth in the Class Notice and the date after which no Class
4 Member shall be allowed to submit a challenge;

5 6.1.9 Approving the procedure for Class Members to opt out of the Class
6 Settlement and the date after which no Class Member shall be allowed to submit a request to opt
7 out; and

8 6.1.10 Approving the procedure for Class Members to object to the Class
9 Settlement and the date after which no Class Member shall be allowed to object.

10 6.2 Defendant will not oppose Plaintiff's filed motion for Preliminary Approval of
11 Settlement.

12 6.3 Should the LWDA provide notice of intent to investigate the alleged violations set
13 forth in Plaintiff's March 9, 2021 LWDA Letter, this Agreement is deemed null and void.

14 6.4 Binding Effect of Agreement on Class Members. Upon the Court's entry of its Final
15 Approval Order, all Participating Class Members shall be bound by this Agreement, and the Action
16 and the Settled Claims shall be dismissed with prejudice and released as against the Released
17 Parties to the greatest extent permitted by law. In addition, unless a Class Member effectively opts
18 out of the Settlement, he or she shall be bound by the Court's Order enjoining all Participating Class
19 Members from pursuing or seeking to reopen Released Claims against the Released Parties to the
20 greatest extent permitted by law. Upon the Court's entry of its Final Approval Order and Judgment
21 regarding the PAGA Payment and the release of the PAGA Claims, all PAGA Employees shall be
22 bound by the release of the PAGA Claims and the PAGA Claims shall be dismissed with prejudice
23 and released as against all the Released Parties to the greatest extent permitted by law.

24 6.5 Non-Interference With Settlement Procedure. The Parties and their counsel agree
25 that they shall not seek to solicit or otherwise encourage Class Members to submit an Opt-Out
26 Request or an objection to the Settlement or to appeal from the Preliminary Approval Order and
27 Order Approving PAGA Settlement, Final Approval Order or Final Judgment.

28 6.6 Final Approval Order and Judgment. Plaintiff will request that the Court enter, after

1 the Final Approval Hearing finally approving the Class Settlement, a Final Approval Order and
2 Judgment. Plaintiff will request that the Final Approval Order certify the Class for settlement
3 purposes; find that this Agreement is fair, just, equitable, reasonable, adequate and in the best
4 interests of the Class; permanently enjoin all Participating Class Members from pursuing or seeking
5 to reopen Released Claims against the Released Parties; and require the Parties to carry out the
6 provisions of this Agreement. Plaintiff agrees to provide his motion for final approval of the class
7 settlement to Defendant for review no later than seven (7) days before the filing date.

8 6.7 Entry of Final Judgment. Plaintiff (or Plaintiff jointly with Defendant) will request
9 that the Court enter, after or concurrently with the Final Approval Hearing, a Final Approval Order
10 and Judgment as agreed to by the Parties. Notice of Final Judgment will be given to the class
11 along with distribution of the Individual Settlement Payment, and be posted on the website
12 maintained by the Settlement Administrator for a period of no less than 90 days. The Class Notice
13 shall advise the Class that the Final Approval Order and Judgment will be posted to a website
14 address maintained by the Settlement Administrator.

15 6.8 Effective Date Of Agreement. The “Effective Date” of the Class Settlement portion
16 of this Agreement is the last date of: (a) final approval of this Agreement by the Court; (b) if there
17 are objections to the Settlement which are not withdrawn, and if an appeal, review or writ is not
18 sought from the Judgment, the day after the time for appeal of entry of Judgment has expired; or
19 (c) if an appeal, review or writ is sought from the Judgment, the day after the Judgment is affirmed
20 or the appeal, review or writ is dismissed or denied, and the Judgment is no longer subject to
21 judicial review. The Effective Date is conditioned upon all of the following occurring:

22 6.8.1 This Agreement has been signed by the Parties and Class Counsel;

23 6.8.2 The Court has entered a Preliminary Approval Order and Order Approving
24 PAGA Settlement;

25 6.8.3 The Class Notice has been mailed to the Class Members as ordered by the
26 Court in this Action;

27 6.8.4 The Court has entered a Final Approval Order and Judgment; and

28 6.8.5 Settlement Administrator has provided Defense Counsel with written

1 wire/bank transfer instructions, including the Settlement Administrator's address, the bank name,
2 bank address, account number, account name, ABA number, and SWIFT Code.

3 The effective date of the PAGA Settlement portion of this Agreement, including the release
4 of the PAGA Claims, shall be the date the approving Court has approved the PAGA Payment and
5 release of the PAGA Claims in the form of a Judgment on the PAGA claims as set forth in this
6 Agreement.

7 6.9 Defendant's Option to Void of Agreement if Settlement Not Finalized. If the Court
8 refuses to approve any economic term or term related to the scope of the release, including the
9 Released Claims or the Released Parties, then Defendant, at its option, may void the Settlement. If
10 Defendant elects to void the Settlement, Defendant shall be responsible for any administrative costs
11 incurred to date. In such case, the Settlement shall be null and void and all orders, judgment, and
12 dismissal entered pursuant to this Agreement shall be vacated, and the Parties will be returned to
13 the status quo prior to entering this Agreement with respect to the Action, as if the Parties had never
14 entered into this Agreement, and the settlement class certified pursuant to this Agreement will be
15 decertified for all purposes, except where the approving Court has approved the PAGA Payment
16 and release of the PAGA Claims set forth in this Agreement and Defendant has issued the PAGA
17 Payment, the release of the PAGA Claims shall be binding. In addition, in such event, the
18 Agreement (including all exhibits, drafts and related documents, papers, and communications) and
19 all negotiations, court orders and proceedings relating thereto shall be without prejudice to the
20 rights of any and all Parties hereto, and evidence relating to the Agreement (including all exhibits,
21 drafts and related documents, papers, and communications) and all negotiations shall not be
22 admissible or discoverable in the Action or otherwise, except where the approving Court has
23 approved the PAGA Payment and release of the PAGA Claims set forth in this Agreement and
24 Defendant has issued the PAGA Payment, the release of the PAGA Claims shall be binding. The
25 Parties agree to return to mediation in an attempt to address the concerns of the Court, and upon
26 reaching an agreement, submit a revised agreement to Court.

27 6.10 Confidentiality and Non-Disparagement and Returning Documents. The Parties
28 agree that the terms of the Agreement shall be confidential until the filing of Plaintiff's Motion for

1 Preliminary Approval. This confidentiality agreement shall not prevent any counsel from
2 conferring with and advising clients who have retained them, provided that the clients agree to
3 abide by this temporary confidentiality agreement. Class Counsel are authorized to discuss the
4 terms of the Settlement with any Class Member.

5 6.10.1 Plaintiff agrees that he shall not promote, or publicize the filing of this
6 Action, the Parties' Settlement, this Agreement and its terms, or the negotiations leading to this
7 Agreement with anyone other than the Court. Notwithstanding the foregoing, Plaintiff may disclose
8 the terms of this Agreement to his spouse, Class Members, to those persons to whom disclosure is
9 necessary for the preparation of tax returns and other financial reports, and to persons to whom
10 disclosure is ordered by a court of competent jurisdiction or otherwise required by law. Plaintiff
11 agrees that he may disclose the terms of the Settlement to his spouse, but only so long as he first
12 obtains his spouse's express agreement to maintain that information in confidence.

13 6.10.2 The Parties and their counsel agree that they will not issue any press releases,
14 engage in any communications, or take any other action that would directly or indirectly provide
15 the press or media or any litigation reporting service with information about this Action, this
16 Agreement, or the Parties' Settlement or would otherwise enable or allow the press or other media
17 or any litigation reporting service to learn or obtain such information; except that Defendant shall
18 have the right to disclose the Settlement and information related thereto as may be required under
19 federal or state securities laws, under generally accepted accounting principles, or in Defendant's
20 judgment are required under the ordinary course of business, and Defendant shall also have the
21 right to respond in reasonably general terms to inquiries from the media and investment-related
22 entities. Plaintiff and his counsel agree not to post any information concerning this Settlement on
23 the internet or social media, including Facebook, Twitter, Instagram and Snapchat. The Parties and
24 their counsel further agree that they will not post any information regarding this Agreement or the
25 Settlement on their internet websites or take any such action that would cause or allow such
26 information to be posted on any other internet website or on the web.

27 6.11 Invalidation of Agreement for Failure to Satisfy Conditions. The terms and
28 provisions of this Agreement are not recitals, but are deemed to constitute contractual terms. In the

1 event that any of the material terms or conditions set forth in this Agreement are not fully and
2 completely satisfied, this Agreement shall terminate and all terms of the Agreement including, but
3 not limited to, the conditional certification of the Class, the payment of Individual Settlement
4 Amounts to Participating Class Members, and the payment of the PAGA Payment shall be null and
5 void. In such event, nothing in this Agreement shall be used, construed or admissible as evidence
6 by or against any Party or Released Party as a determination, admission, or concession of any issue
7 of law or fact in this Action, or in any other proceeding for any purpose; and the Parties do not
8 waive, and instead expressly reserve, their respective rights to prosecute and defend this Action as
9 if this Agreement never existed. In addition, notwithstanding the generality of the foregoing, if this
10 Agreement is terminated for failure to satisfy any of the terms or conditions of this Agreement,
11 Defendant shall not be obligated to create or maintain any type of settlement fund, and shall not be
12 obligated to pay any amount in the Maximum Settlement Amount to any Class Member and/or
13 PAGA Employee, to Class Counsel, to the Settlement Administrator, to the State of California or
14 to the Plaintiff. In event the approving Court has approved the PAGA Payment and release of the
15 PAGA Claims set forth in this Agreement and Defendant has issued the PAGA Payment, the release
16 of the PAGA Claims shall be binding. The amount of the Class Representative Enhancement and
17 the amount of the Class Counsel's Fees and Expenses are not material terms of the Settlement.
18 Failure of the Court to award the requested Class Representative Enhancement or award the
19 requested Class Counsel's Fees and Expenses are not grounds to void this Settlement.

20 **7. SETTLEMENT PAYMENT PROVISIONS**

21 7.1 Allocation of Maximum Settlement Amount. Subject to Court approval and the
22 conditions specified in this Agreement, and in consideration of the mutual covenants and promises
23 set forth herein, Defendant agrees to make a total settlement payment under this Agreement in the
24 amount of \$150,000.00 (the "Maximum Settlement Amount"). The Maximum Settlement Amount
25 includes, but is not limited to, payments to be made for (1) Class Counsel's Fees and Expenses; (2)
26 the Class Representative Enhancement; (3) Administrative Expenses; (4) PAGA Payment; and
27 (5) Net Settlement Amount. The Parties agree, subject to Court approval, that the Maximum
28

1 Settlement Amount shall be apportioned as follows:

2 7.2 At the Final Approval Hearing, Class Counsel will apply to the Court for an award
3 of attorneys' fees incurred by Class Counsel not to exceed thirty-five percent (35%) of the
4 Maximum Settlement Amount, which is \$52,500.00. At the Final Approval Hearing, Class Counsel
5 will also apply to the Court for recovery of actual costs incurred by Class Counsel in the Action,
6 not to exceed \$15,000. Defendant will not oppose such application provided that Class Counsel
7 does not seek to recover more than the maximum amounts as stated in this Paragraph. Approval of
8 the Settlement shall not be contingent upon approval of the attorneys' fees award or the costs award,
9 and approval of the requested attorneys' fees and costs award is not a material term of this
10 settlement.

11 These fees and costs are included in, and shall come from, the Maximum Settlement
12 Amount. The Class Counsel's Fees and Expenses approved by the Court shall encompass: (a) all
13 work performed and costs and expenses incurred by, or at the direction of, any attorney purporting
14 to represent the Class and/or PAGA Employees through the date of this Agreement; (b) all work to
15 be performed and costs to be incurred in connection with approval by the Court of the Settlement
16 and the termination of this Action; (c) all work to be performed and costs and expenses, if any,
17 incurred in connection with administering the Settlement through the termination of the Action,
18 with prejudice; and (d) may be based *inter alia* on the Common Fund Doctrine and/or the Catalyst
19 Theory.

20 Class Counsel must provide Defendant with IRS Forms W-9, so that Defendant may issue
21 IRS Forms 1099 misc. To the extent attorneys' fees are not approved in the full amount of
22 \$52,500.00 as set forth above, then the amount not approved will be a part of the Net Settlement
23 Amount for distribution to the Participating Class Members on a *pro rata* basis. Similarly, to the
24 extent costs sought by Class Counsel are not approved in their entirety, any sum not approved will
25 be a part of the Net Settlement Amount for distribution to the Participating Class Members on a
26 *pro rata* basis. Except as provided in this Paragraph, upon final approval, each Party shall bear his
27 or its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, and settlement
28 of the Action. Class Counsel reserves the right to appeal an award of attorney's fees that is less

1 than twenty-five (25%) of the Maximum Settlement Amount, which is \$37,500.

2 7.2.1 At the Final Approval Hearing, Class Counsel will apply to the Court for the
3 Class Representative Enhancement in the amount of up to \$7,500.00 to be paid to Plaintiff for his
4 services and for assuming the risks associated with this litigation. Defendant will not oppose such
5 application. Approval of the Settlement shall not be contingent upon approval of the Class
6 Representative Enhancement, and approval of the requested Class Representative Enhancement is
7 not a material term of this settlement.

8 Any Class Representative Enhancement is included in, and shall come from, the Maximum
9 Settlement Amount. If the Court approves and awards a Class Representative Enhancement in an
10 amount less than \$7,500.00, as set forth above, the amount not approved will be a part of the Net
11 Settlement Amount for distribution to the Participating Class Members on a *pro rata* basis. The
12 Class Representative Enhancement payable to the Plaintiff shall be in addition to any Individual
13 Settlement Payment he may receive.

14 Subject to Court approval, an amount of \$11,250 shall be paid to the State of California
15 LWDA. This amount is 75% of the \$15,000 PAGA Payment that the Parties have agreed is to be
16 paid in settlement of all claims for civil penalties under the PAGA. The remaining 25% of the
17 \$15,000 PAGA payment, which amounts to \$3,750 of the PAGA Payment, shall be distributed *pro*
18 *rata* to all PAGA Employees, based on the number of PAGA Pay Periods worked by a PAGA
19 Employee, as a fraction of the PAGA Pay Period Value. The portion of the PAGA payment to the
20 PAGA Employees shall be treated entirely as penalties. PAGA Employees will not have the
21 opportunity to opt out or object to the PAGA Payment and/or release of PAGA Claims set forth in
22 this Agreement although the PAGA Settlement will be subject to Court approval. In the event the
23 LWDA rejects this allocation, the Parties will meet and confer with the Court and the LWDA to
24 reach a penalty allocation acceptable to all parties that does not materially alter the terms of
25 Settlement, nor require Defendant to pay more than the Maximum Settlement Amount. At the same
26 time that Plaintiff files his Motion for Preliminary Approval, Plaintiff shall send a copy of the
27 Agreement to the LWDA pursuant to the 2016 amendments to PAGA. The PAGA Payment shall
28 be paid from the Maximum Settlement Amount. Defendant represents that there are 1,108 PAGA

1 Pay Periods.

2 7.2.2 Subject to Court approval, an amount of up to \$10,000.00 will be set aside
3 from the Maximum Settlement Amount to cover any and all of the Settlement Administrator's
4 Administrative Expenses. The Parties agree to use Simpluris as the Settlement Administrator. If
5 any portion of the \$10,000.00 amount for the Settlement Administrator's Administrative Expenses
6 remains unused, it will go to the Net Settlement Amount.

7 7.2.3 The Settlement Administrator shall calculate the Employers' Taxes and
8 inform Defendant of the amount of Employers' Taxes to be paid by Defendant separate and apart
9 from the Maximum Settlement Amount.

10 7.2.4 After deducting the amounts specified in Paragraph 7, each Participating
11 Class Member shall be entitled to a *pro rata* portion of the remaining amount of the Maximum
12 Settlement Amount, which is known as the Net Settlement Amount. To calculate the minimum
13 amount each Class Member will receive based on their individual Qualifying Workweeks, the Net
14 Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class
15 Members during the Class Period and then allocated on a pro rata basis. Qualifying Workweeks
16 will be rounded up to the next whole integer. Each Class Member's approximate Individual
17 Settlement Payment amount will be included in his or her Notice Packet. After final approval by
18 the Court, the Net Settlement Amount will be dispersed to Participating Class Members (those who
19 did not exclude themselves) on a pro rata basis based on the individual Qualifying Workweeks
20 worked during the Class Period by each Participating Class Member. The Individual Settlement
21 Payment will be reduced by any required legal deductions.

22 The Parties agree that the entire amount of the Net Settlement Amount, less applicable
23 Employee's Taxes, shall be distributed to Participating Class Members. Any Class Member who is
24 not a Participating Class Member shall not receive an Individual Settlement Payment, but if he/she
25 is a PAGA Employee, such individual will still receive his/her *pro rata* share of the PAGA Payment
26 to the PAGA Employees.

27 7.3 Taxation of Settlement Proceeds. All Individual Settlement Payments paid to
28 Participating Class Members and any Class Representative Enhancement paid to Plaintiff shall be

1 paid in a net amount after applicable state and federal withholdings, including payroll taxes, have
2 been deducted. The Parties acknowledge and agree that: (1) no provision of this Agreement, and
3 no written communication or disclosure between or among the Parties, Class Counsel, or
4 Defendant's Counsel and other advisers, is or was intended to be, nor shall any such communication
5 or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
6 United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the
7 acknowledging party: (a) has relied exclusively upon his, her, or its own, independent legal and tax
8 counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered
9 into Settlement Agreement based upon the recommendation of any other party or any attorney or
10 advisor to any other party; and (c) is not entitled to rely upon any communication or disclosure by
11 any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
12 acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation
13 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
14 whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax
15 treatment or tax structure of any transaction, including any transaction contemplated by this
16 Settlement Agreement.

17 7.3.1 The Parties agree that fifty percent (50%) of the Net Settlement Amount paid
18 to Participating Class Members will be considered wages, and will be reported as such to each
19 Participating Class Member on an IRS Form W-2. The Parties agree that fifty percent (50%) of the
20 Net Settlement Amount paid to Participating Class Members will be considered civil penalties and
21 interest, and will be reported as such to each Participating Class Member on an IRS Form 1099
22 misc., if applicable. The foregoing tax allocation shall apply to sums paid to Plaintiff. The Parties
23 further agree that the PAGA payment distributed to each PAGA Employee will be treated entirely
24 as civil penalties, and will be reported as such to each PAGA Employee on an IRS Form 1099
25 misc., if applicable.

26 7.3.2 The Settlement Administrator shall calculate, withhold from each Individual
27 Settlement Payment and the Class Representative Enhancement, and remit to applicable
28 governmental agencies sufficient amounts as may be owed by the Participating Class Members and

1 Plaintiff for applicable employee taxes. The Settlement Administrator will issue appropriate tax
2 forms to each Participating Class Member and PAGA Employee consistent with the foregoing
3 breakdown.

4 7.3.3 The Parties agree that the Maximum Settlement Amount will qualify as a
5 settlement fund pursuant to the requirements of section 468(B)(g) of the Internal Revenue Code of
6 1986, as amended, and section 1.468B-1. *et seq.* of the income tax regulations. Furthermore, the
7 Settlement Administrator is hereby designated as the “Administrator” of the qualified settlement
8 funds for purposes of section 1.46B-2(k) of the income tax regulations. As such, all taxes imposed
9 on the gross income of the Maximum Settlement Amount and any tax-related expenses arising from
10 any income tax return or other reporting document that may be required by the Internal Revenue
11 Service or any state or local taxing body will be paid from the Maximum Settlement Amount.

12 7.3.4 All Parties represent that they have not received, and shall not rely on, advice
13 or representations from the other Party or her/its agents regarding the tax treatment of payments
14 under federal, state or local law.

15 7.4 No Credit Toward Benefit Plans. Except as otherwise required by applicable plan
16 documents, the Individual Settlement Payments, Class Representative Enhancement and PAGA
17 Payment made to Plaintiff, Class Members and PAGA Employees under this Agreement shall not
18 be utilized to calculate any additional benefits under any benefit plans to which any Plaintiff, Class
19 Members and/or PAGA Employees may be eligible including, but not limited to: retirement plans,
20 profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
21 plans, PTO plans, pension plans, or any other benefit plan. It is the Parties’ intention that this
22 Agreement will not affect any rights, contributions, or amounts to which Plaintiff, Class Members
23 and PAGA Employees may be entitled under any benefit plans.

24 **8. GENERAL PROVISIONS**

25 8.1 Notices. All notices, requests, demands and other communications required or
26 permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered
27 personally or by first class mail to the Settlement Administrator appointed by the Court and to
28 counsel at their respective addresses as set forth below:

1 **CLASS COUNSEL**

2 Roman Otkupman
3 Nidah Farishta
4 **Otkupman Law Firm, a Law Corporation**
5 5743 Corsa Ave., Suite 123
6 Westlake Village, CA 91362

7 **DEFENSE COUNSEL**

8 Craig G. Staub
9 Melanie Rollins
10 **Littler Mendelson, P.C.**
11 633 West 5th Street, 63rd Floor
12 Los Angeles, CA 90071

13 Stacey E. James
14 **Littler Mendelson, P.C.**
15 501 W. Broadway, Suite 900
16 San Diego, CA
17 92101.3577

18 8.2 Nullification Of Settlement Agreement. In the event: (1) the Court does not enter
19 the Preliminary Approval Order as provided herein; (2) the Court does not enter a Final Approval
20 Order as provided herein; (3) the Settlement does not become final for any other reason; or (4)
21 Judgment is not entered by the Court dismissing the lawsuit as to all Claims as to all Class Members
22 with prejudice, this Settlement Agreement shall be null and void and any order entered by the Court
23 in furtherance of this Settlement shall be treated as void from the beginning. In such case, the
24 Parties shall be returned to their respective statuses as of the date and time immediately prior to the
25 execution of this Agreement and the Parties shall proceed in all respects as if this Agreement had
26 not been executed.

27 8.3 Headings. The descriptive headings of any paragraphs or sections of this Settlement
28 Agreement are inserted for convenience only and do not constitute a part of this Settlement
Agreement.

8.4 Interim Stay Of Proceedings. The Parties agree to stay all proceedings in the Action,
except such proceedings necessary to implement and complete the Settlement, pending the Final
Approval Hearing to be conducted by the Court.

8.5 Amendment Or Modification. This Settlement Agreement may be amended or

1 modified only by a written instrument signed by Defense and Class Counsel or their successors-in-
2 interest.

3 8.6 Entire Agreement. This Settlement Agreement constitute the entire agreement
4 among the Parties, and no oral or written representations, warranties or inducements have been
5 made to any Party concerning this Settlement Agreement other than the representations, warranties
6 and covenants contained and memorialized in the Settlement Agreement.

7 8.7 Authorization To Enter Into Settlement Agreement. The person or persons signing
8 this Settlement Agreement on behalf of Defendant represents and warrants that he/she/they are
9 authorized to sign this Settlement Agreement on behalf of Defendant. Plaintiff represents and
10 warrants that he is authorized to sign this Settlement Agreement and that he has not assigned any
11 Claim covered by this Settlement to a third-party. Plaintiff, by signing this Settlement Agreement,
12 is bound by the terms herein and further agrees not to submit any Request for Exclusion from or
13 Notice of Objection to the Settlement. Any such Request for Exclusion or Notice of Objection
14 shall therefore be void and of no force or effect.

15 8.8 Signature of all Class Members Unnecessary to be Binding. The Parties agree that
16 because the Class Members are numerous, it is impossible or impractical to have each Class
17 Member execute this Agreement. The Notice will advise all Class Members of the binding nature
18 of the release provided herein and shall have the same force and effect as if the Agreement were
19 executed by each Class Member. The only Class Members who will not be bound by the terms of
20 this Agreement are those who submit a timely and valid Request for Exclusion.

21 8.9 Binding On Successors And Assigns. This Settlement Agreement shall be binding
22 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
23 defined.

24 8.10 Captions. The captions and section numbers in this Agreement are inserted for the
25 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the
26 provisions of this Agreement.

27 8.11 California Law Governs. All terms of this Settlement Agreement shall be governed
28 by and interpreted according to the laws of the State of California.

1 8.12 Mutual Cooperation. The Parties agree to fully cooperate with each other to
2 accomplish the terms of this Agreement, including but not limited to, execution of such documents
3 and to take such other action as may be necessary to implement the terms of this Agreement. The
4 Parties to this Agreement shall use their best efforts, including all reasonable efforts contemplated
5 by this Agreement and any other reasonable efforts that may become necessary by order of the
6 Court, or otherwise, to effectuate this Agreement and the terms set forth herein.

7 8.13 Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
8 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly
9 against one party than another merely by virtue of the fact that it may have been prepared by counsel
10 for one of the Parties, it being recognized that, because of the arms-length negotiations between the
11 Parties, all Parties have contributed to the preparation of this Agreement.

12 8.14 Severability. The Parties to this Agreement agree, covenant, and represent that each
13 and every provision of this Agreement shall be deemed to be contractual, and that they shall not be
14 treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree,
15 covenant, and represent that each and every provision of this Agreement shall be considered
16 severable, except for the release provisions of Paragraph 5 of this Agreement. If a court of
17 competent jurisdiction finds the release provisions of Paragraph 5 of this Agreement to be
18 unenforceable or invalid as against a Class Member, then this Agreement shall become voidable
19 and the payments made pursuant to this Agreement to that Class Member shall be returned to
20 Defendant by that Class Member as to whom the release provisions have been found unenforceable
21 or invalid. If a court of competent jurisdiction finds any provision, other than the release provisions
22 of Paragraph 5, or part thereof to be invalid or unenforceable for any reason, that provision, or part
23 thereof, shall be severed from the Agreement, and all of the remaining provisions of this Agreement
24 shall remain in full force and effect.

25 8.15 Warranties and Representations. With respect to themselves, each of the Parties to
26 this Agreement and/or their agent or counsel represents, covenants and warrants that (a) they have
27 full power and authority to enter into and consummate all transactions contemplated by this
28 Agreement and have duly authorized the execution, delivery and performance of this Agreement;

1 and (b) the person executing this Agreement has the full right, power and authority to enter into
2 this Agreement on behalf of the party for whom he/she has executed this Agreement, and the full
3 right, power and authority to execute any and all necessary instruments in connection herewith, and
4 to fully bind such party to the terms and obligations of this Agreement.

5 8.16 Representation by Counsel. The Parties acknowledge that they have been
6 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
7 and that this Agreement has been executed with the consent and advice of counsel. Further, the
8 Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement, and that
9 Defendant may distribute funds to the Class Members, Class Counsel, and the Plaintiff as provided
10 by this Agreement.

11 8.17 Action to Enforce Agreement. In any suit or court action to enforce the terms of this
12 Agreement, the prevailing party shall be entitled to recover his or its attorneys' fees and costs.

13 8.18 Authorization by Plaintiff. The Plaintiff authorizes Class Counsel to sign this
14 Agreement and further agrees not to request to be excluded from the Class and not to object to any
15 terms of this Agreement. Any such request for exclusion or objection shall therefore be void and
16 of no force or effect.

17 8.19 Counterparts. This Settlement Agreement shall become effective upon its execution
18 by all of the undersigned. Plaintiff, Class Counsel and Defendant may execute this Settlement
19 Agreement in counterparts, which shall have the same force and effect as if each had signed the
20 same instrument. Copies of the executed Settlement Agreement shall be effective for all purposes
21 as though the signatures contained therein were original signatures.

22 IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on
23 the date below their signatures or the signature of their representatives. The date of the Agreement
24 shall be the date of the latest signature.

25 Dated: October 13, 2022

26 NNA SERVICES, LLC

27 BY: Julia B. Hartel

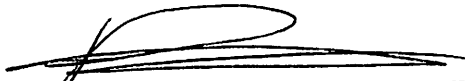
28 ITS: Vice President, Human Resources

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Dated: October 11, 2022


JOHN GRABER, Plaintiff

Dated: October 11, 2022


ROMAN OTKUPMAN
NIDAH FARISHTA
OTKUPMAN LAW FIRM, A LAW
CORPORATION
Attorneys for Plaintiff
JOHN GRABER, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED

Dated: October 14, 2022


STACEY E. JAMES
LITTLER MENDELSON, P.C.
Attorneys for Defendant
NNA SERVICES, LLC, ERRONEOUSLY
IDENTIFIED AS N.N.A. SERVICES