

MAYALL HURLEY P.C.
Robert J. Wassermann (SBN: 258538)
rwassermann@mayallaw.com
Jenny D. Baysinger (SBN: 251014)
jbaysinger@mayallaw.com
2453 Grand Canal Boulevard
Stockton, California 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818
Website: www.mayallaw.com

Attorneys for Plaintiff Samantha Owens and the
Putative Class

LITTLER MENDELSON P.C.
Angela J. Rafoth (SBN: 241966)
arafoth@littler.com
333 Bush Street, 34th Floor
San Francisco, California 94104
Telephone: (415) 433-1940
Fax No.: (415) 399-8490

Attorneys for Defendant
Fidelity National Home Warranty Company

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

SAMANTHA OWENS,

Plaintiff,

v.

FIDELITY NATIONAL HOME WARRANTY
COMPANY; and DOES 1-100 inclusive,

Defendants.

Case No. MSC21-00731

JOINT STIPULATION FOR CLASS
ACTION SETTLEMENT AND RELEASE

1 This Joint Stipulation of Class Action Settlement and Release (hereinafter, "Settlement") is
2 made and entered into by and between Plaintiff Samantha Owens, individually and on behalf of the
3 Settlement Class, and Defendant Fidelity National Home Warranty Company, and is subject to the
4 terms and conditions hereof and the approval of the Court.

5 **DEFINITIONS**

6 1. "Action" means this lawsuit between the Parties pending in the Superior Court for
7 the County of Contra Costa as Case No. MSC21-00731, including the alleged class claims,
8 representative claims, and individual claims asserted therein.

9 2. "Class Counsel" refers to the law firm of Mayall Hurley P.C.

10 3. "Class Notice" means the Notice of Proposed Class Action Settlement that shall be
11 mailed to Settlement Class Members, subject to court approval, in substantially the form attached
12 hereto as "**Exhibit A.**"

13 4. "Class Period" is the period from April 12, 2017, through and including September
14 21, 2023.

15 5. "Defendant" means Fidelity National Home Warranty Company.

16 6. "Defendant's Counsel" refers to the law firm of Littler Mendelson, P.C.

17 7. "LWDA" means the California Labor & Workplace Development Agency.

18 8. "PAGA" means the California Labor Code's Private Attorneys General Act of 2004,
19 as amended, section 2698, *et seq.*

20 9. "PAGA Period" is the period from April 12, 2020, through and including September
21 21, 2023.

22 10. "Parties" means Plaintiff and Defendant, collectively.

23 11. "Plaintiff" means named Plaintiff Samantha Owens.

24 12. "Qualified Class Member" means a Settlement Class Member who does not timely
25 seek exclusion from the Settlement Agreement. All Qualified Class Members shall be included in
26 the Settlement and shall receive a Settlement Share in exchange for the full release of the Settlement
27 Class Released Claims (as defined herein) for the entire Class Period.
28

14. “Settlement Administrator” means the third-party class action settlement administrator agreed to by the Parties and approved by the Court for the purposes of administering this Settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

15. “Settlement Class” includes all non-exempt individuals who worked for Defendant in California at any time during the Class Period and who are members of one or more of the following subclasses: (1) the “Meal Period Subclass,” which includes those who worked at least one shift of more than five (5) hours from March 1, 2020, through and including September 21, 2023; (2) the “Overtime Subclass,” which includes those who earned a non-discretionary bonus or other remuneration pertaining to a workweek when he or she also worked overtime on at least one occasion from April 12, 2017, through and including September 21, 2023, and who were not part of the “Overtime Class” in the matter of *Dillard/Menchaca v. Fidelity National Financial, Inc., et al.*, Contra Costa County Superior Court Case No. C18-00394; and (3) the “Wage Statement Subclass,” which includes those who received one or more wage statements at any time from April 12, 2020, through and including September 21, 2023. All Settlement Class Members shall receive a portion of the PAGA Allocation in exchange for the full release of the PAGA Release (as defined herein) for the entire PAGA Period. A “Settlement Class Member” is an individual member of the Settlement Class.

16. “Total Workweeks” means the number of calendar workweeks that the respective Settlement Class Member worked during the Class Period as a member of the Meal Period Subclass, Overtime Subclass, and/or Wage Statement Subclass.

17. On February 2, 2021, Plaintiff provided notice to LWDA of the alleged Labor Code violations in this Action.

19. The Parties have conducted formal and informal discovery and investigation of the facts and law in this Action. Such discovery and investigation have included, inter alia, the exchange of informal data and discoverable information in preparation for the mediation session. The Parties have analyzed payroll and other data pertaining to Plaintiff and the Settlement Class during the relevant Class Period, including but not limited to, employee workweeks, time records, meal period records, wage statements, wages, hours worked, compensation paid, and rates of hourly pay.

21. Defendant disputes the merits of the action and deny all liability and wrongdoing of any kind associated with the claims alleged in the Action or otherwise. Defendant contends, inter alia, that at all times it fully complied with all state and federal wage and hour laws, including all Labor Code and Wage Order requirements, and all regulations applicable to Plaintiff and the

1 Settlement Class in connection with the services performed for Defendant. Nothing contained in
2 this Settlement Agreement, nor any documents referred to herein, nor any action taken to carry out
3 and/or consummate the Settlement is, or may be construed as, or may be used as, an admission of
4 liability, culpability, negligence or wrongdoing by or against Defendant as to the merits or lack
5 thereof of the claims being settled by this Settlement Agreement.

6 22. On May 5, 2023, the Parties mediated the Action before David Phillips, who is a
7 highly experienced and well-regarded mediator in employment litigation, specifically including
8 wage and hour class action matters. After a full day of mediation, the Parties were not able to
9 resolve this Action. The Parties continued their settlement negotiations for more than two months,
10 and with the assistance of mediator David Phillips, agreed to the material terms of this settlement
11 by accepting the mediator's settlement proposal on July 20, 2023.

12 23. The Parties now enter into this Settlement Agreement to submit to the Court for
13 approval in accordance with their agreement to obtain final approval of the Settlement. As more
14 particularly set forth below, it is the desire of the Parties to fully, finally and forever settle,
15 compromise and discharge the Settlement Class Released Claims. In addition, Plaintiff agrees to
16 enter into a general release of all claims as more particularly set forth below.

17 24. For settlement purposes only, the Parties conditionally stipulate and agree that all of
18 the requisites for establishing class certification are met with respect to the "Settlement Class," as
19 defined above, and stipulate to certification under Code of Civil Procedure section 382 of this class.
20 Defendant does not waive, and instead expressly reserves, its right to challenge the propriety of
21 class certification for any purpose should the Court not approve the Settlement. Defendant's
22 willingness to stipulate to class certification as part of the Settlement shall have no bearing on, and
23 shall not be admissible in or considered in connection with, the issue of whether a class should be
24 certified in a non-settlement context in this Action and shall have no bearing on, and shall not be
25 admissible or considered in connection with, the issue of whether a class should be certified in any
26 other lawsuit.

27 25. Should the Settlement not achieve final approval for any reason, the Parties agree
28 that this Action shall revert to the procedural posture that existed as of the date the Parties accepted

1 the mediator's proposal on July 20, 2023, including but not limited to any pending discovery
2 requests and motions, and no Party shall have waived any rights between the Parties and/or the
3 Settlement Class, and/or any individual member of the Settlement Class.

4 26. The Parties intend that this Settlement Agreement shall include a full and complete
5 settlement and release, as more particularly set forth below, of Defendant, and each of its past,
6 present and future affiliates, parent companies, subsidiaries, shareholders, lenders, officers,
7 partners, directors, employees, agents, attorneys, insurers, predecessors, representatives,
8 accountants, plan administrators, heirs, trustees and successors and assigns, and each and all of
9 their respective past, present and future officers, partners, directors, servants, agents, shareholders,
10 members, employees, representatives, accountants, insurers, and attorneys and all persons acting
11 under, by, through, or in concert with any of them (the "Released Parties").

12 27. In connection with the proposed certification of the Settlement Class, the Parties
13 shall cooperate and present to the Court for its consideration any additional competent evidence, as
14 may be requested by the Court, under the applicable due process requirements and standards for
15 class certification, and shall take all steps necessary and appropriate to obtain preliminary and final
16 approval of the Settlement and to effectuate all aspects of the Settlement.

17 **SETTLEMENT STRUCTURE**

18 28. NOW, THEREFORE, in consideration of the mutual covenants, promises, and
19 warranties set forth herein, the Parties agree, subject to the Court's approval, as follows:

20 A. Settlement: This Action shall be settled and compromised as between
21 Plaintiff, the Settlement Class, and Defendant, subject to the terms and conditions set forth in this
22 Settlement Agreement and the approval of the Superior Court of California, County of Contra
23 Costa. In the event that Judgment is not entered, or in the event that this Settlement Agreement is
24 modified in any material respect, or in the event that the Effective Date, as defined herein, does not
25 occur, this Settlement Agreement shall be deemed null and void and shall be of no force or effect
26 whatsoever, and shall not be referred to or utilized for any purpose whatsoever.

27 B. Gross Settlement Amount: The settlement is in the gross amount of Two
28 Hundred Eighty-Five Thousand Dollars and Zero Cents (\$285,000.00) (hereinafter, the "Gross

1 Settlement Amount”). This Gross Settlement Amount is all-inclusive of all payments contemplated
2 in this resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares
3 allocated to wages which shall be separately paid by Defendant to the Settlement Administrator.
4 The Gross Settlement Amount shall be inclusive of, as described and defined herein, all settlement
5 payments to Qualified Class Members, the costs of settlement administration, Class Counsel’s
6 reasonable attorneys’ fees, Class Counsel’s reasonable litigation expenses and costs, service fee
7 award to Plaintiff, and the PAGA Allocation. No other funds shall be owed or paid by Defendant
8 in excess of the Gross Settlement Amount, other than the employer-side tax obligations identified
9 above.

10 C. Net Settlement Amount: The Net Settlement Amount shall be the Gross
11 Settlement Amount, less all of the following: the costs of settlement administration (subject to the
12 approval of the Court), Class Counsel’s reasonable attorneys’ fees, expenses, and costs (subject to
13 the approval of the Court), Plaintiff’s service fee award (subject to the approval of the Court), and
14 the PAGA Allocation (subject to the approval of the Court). It is estimated that the Net Settlement
15 Amount will be One Hundred Forty-Seven Thousand Five Hundred Dollars (\$147,500).

16 D. Settlement Share of Qualified Class Members: Each Qualified Class
17 Member’s respective share of the Net Settlement Amount shall be calculated as follows:

18 i. As described below, Defendant will provide the Settlement
19 Administrator with Settlement Class Information (as defined herein), including the Settlement
20 Class Members’ respective dates of employment.

21 ii. From the Settlement Class Information, the Settlement Administrator
22 shall determine the Total Workweeks for each Qualified Class Member as a member of the (1)
23 Meal Period Subclass, (2) Overtime Subclass, and/or (3) Wage Statement Subclass.

24 iii. After final approval of this Settlement and according to the
25 timetables set forth in this Settlement Agreement, all Qualified Class Members who are members
26 of the Meal Period Subclass are eligible to receive a pro-rata share of fifty percent (50%) of the Net
27 Settlement Amount (the “Meal Period Share”). Each Qualified Class Member who is a member of
28 the Meal Period Subclass shall receive a Meal Period Share in exchange for the full release of the

1 Settlement Class Released Claims for the entire Class Period. Qualified Class Members of the
2 Meal Period Subclass shall ultimately be entitled to a distribution in the amount of that fraction of
3 the Meal Period Share, in which the numerator is the number of the respective Qualified Class
4 Member's Total Workweeks between March 1, 2020 and September 21, 2023, and the denominator
5 is the sum, aggregate total of the Total Workweeks of all Qualified Class Members of the Meal
6 Period Subclass between March 1, 2020 and September 21, 2023. Defendant represented at the
7 mediation on May 5, 2023 that there were approximately 104 members of the Meal Period Subclass.
8 If Defendant has underrepresented the number of members of the Meal Period Subclass as of May
9 5, 2023 for any reason by more than ten (10) percent, Defendant agrees to reduce the Class Period
10 for the Meal Period Subclass to a date earlier than September 21, 2023 to reduce the increase to ten
11 (10) percent or less.

12 iv. After final approval of this Settlement and according to the
13 timetables set forth in this Settlement Agreement, all Qualified Class Members who are members
14 of the Overtime Subclass are eligible to receive a pro-rata share of fifteen percent (15%) of the Net
15 Settlement Amount (the "Overtime Share"). Each Qualified Class Member who is a member of the
16 Overtime Subclass shall receive an Overtime Share in exchange for the full release of the Settlement
17 Class Released Claims for the entire Class Period. Qualified Class Members of the Overtime
18 Subclass shall ultimately be entitled to a distribution in the amount of that fraction of the Overtime
19 Share, in which the numerator is the number of the respective Qualified Class Member's Total
20 Workweeks between April 12, 2017 and September 21, 2023, and the denominator is the sum,
21 aggregate total of the Total Workweeks of all Qualified Class Members of the Overtime Subclass
22 between April 12, 2017 and September 21, 2023. Defendant represented at the mediation on May
23 5, 2023 that there were approximately 106 members of the Overtime Subclass. If Defendant has
24 underrepresented the number of members of the Overtime Subclass as of May 5, 2023 for any
25 reason by more than ten (10) percent, Defendant agrees to reduce the Class Period for the Overtime
26 Subclass to a date earlier than September 21, 2023 to reduce the increase to ten (10) percent or less.

27 v. After final approval of this Settlement and according to the
28 timetables set forth in this Settlement Agreement, all Qualified Class Members who are members

1 of the Wage Statement Subclass are eligible to receive a pro-rata share of twenty percent (20%) of
2 the Net Settlement Amount (the “Wage Statement Share”). Each Qualified Class Member who is a
3 member of the Wage Statement Subclass shall receive a Wage Statement Share in exchange for the
4 full release of the Settlement Class Released Claims for the entire Class Period. Qualified Class
5 Members of the Wage Statement Subclass shall ultimately be entitled to a distribution in the amount
6 of that fraction of the Wage Statement Share, in which the numerator is the number of the respective
7 Qualified Class Member’s Total Workweeks between April 12, 2020 and September 21, 2023, and
8 the denominator is the sum, aggregate total of the Total Workweeks of all Qualified Class Members
9 of the Wage Statement Class between April 12, 2020 and September 21, 2023. Defendant
10 represented at the mediation on May 5, 2023 that there were approximately 104 members of the
11 Wage Statement Subclass. If Defendant has underrepresented the number of members of the Wage
12 Statement Subclass as of May 5, 2023 for any reason by more than ten (10) percent, Defendant
13 agrees to reduce the Class Period for the Wage Statement Subclass to a date earlier than September
14 21, 2023 to reduce the increase to ten (10) percent or less.

15 vi. After final approval of this Settlement and according to the
16 timetables set forth in this Settlement Agreement, all Qualified Class Members who are members
17 of the Meal Period Subclass or the Overtime Subclass whose employment with Defendant ended
18 between April 12, 2018 and September 21, 2023 will additionally receive an equal pro-rata portion
19 of fifteen percent (15%) of the Net Settlement Amount (the “Waiting-Time Penalty Share”).

20 vii. The Meal Period Share, Overtime Share, Wage Statement Share, and
21 Waiting-Time Penalty Share shall together constitute the entire potential Settlement Share of each
22 Qualified Class Member (“Settlement Share”). For tax purposes, the Settlement Share shall be
23 allocated as follows: (1) the Meal Period Share shall be allocated as penalties; (2) the Overtime
24 Share shall be allocated as wages subject to reduction for payroll tax and withholding requirements;
25 (3) the Wage Statement Share shall be allocated as penalties; and (4) the Waiting-Time Penalty
26 Share shall be allocated as penalties. Each Qualified Class Member shall assume full responsibility
27 and liability for correctly characterizing the Settlement Share he or she receives for tax purposes
28 and for the payment of any other taxes owing on that amount.

viii. The Settlement Share will not count as earnings or compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendant.

ix. A Qualified Class Member's act of negotiating his or her Settlement Share for payment shall operate as, and be deemed to express, the Qualified Class Member's intent to opt in, join, settle, and fully release and discharge all of the Settlement Class Released Claims, including any claims the Qualified Class Member may have under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*

E. Class Counsel Attorneys' Fees: Defendant agrees that it will not oppose Plaintiff's request for an award of attorneys' fees to Class Counsel in an amount up to one-third (1/3) of the Gross Settlement Amount in order to compensate and reimburse Class Counsel for all of the work already performed in this case, all of the work remaining to be performed by Class Counsel in documenting the Settlement, securing Court approval of the Settlement, making sure that the Settlement is fairly administered and implemented, and obtaining final approval of this Settlement. Plaintiff believe such a percentage fee is warranted considering, without limitation: (1) the time and labor required of Class Counsel in this Action; (2) the complexity involved and the results obtained; (3) the potential contingent nature of the compensation; (4) the opportunity costs to Class Counsel in the time the engagement has taken away from other potential matters; and (5) the informed consent of Plaintiff to a percentage fee to Class Counsel of up to one-third of the Gross Settlement Amount. The Parties acknowledge and understand that Class Counsel's attorneys' fees will be paid entirely from the Gross Settlement Amount, regardless of the amount approved by the Court, and that should the Court approve a lesser amount than set forth in this subparagraph, the unapproved amount shall be allocated to the Net Settlement Amount.

F. Class Counsel's Costs: Class Counsel will separately seek recovery of their actual, reasonable litigation costs and expenses. Defendant agrees that it will not oppose or otherwise object to Plaintiff's request for an award of costs in the amount up to Fifteen Thousand Dollars (\$15,000). The Parties acknowledge and understand that Class Counsel's costs will be paid entirely from the Gross Settlement Amount, regardless of the amount approved by the Court, and

1 that should the Court approve a lesser amount than set forth in this subparagraph, the unapproved
2 amount shall be allocated to the Net Settlement Amount.

3 G. Enhancement Payment for Plaintiff: Subject to Court approval, Defendant
4 will not object to application for a service fee award of Ten Thousand Dollars (\$10,000) for
5 Plaintiff. It is understood that this service fee award is in addition to Plaintiff's Settlement Share
6 as a Qualified Class Member. The Settlement Administrator will issue IRS Form 1099 for the
7 service fee award to Plaintiff. Plaintiff shall assume full responsibility and liability for correctly
8 characterizing this compensation on her personal income tax return for tax purposes and for paying
9 any taxes on the amounts received. The Parties acknowledge and understand that the service fee
10 award will be paid entirely from the Gross Settlement Amount, regardless of the amount approved
11 by the Court, and that should the Court approve a lesser amount(s) than set forth in this
12 subparagraph, the unapproved amount(s) shall be allocated to the Net Settlement Amount.

13 H. The PAGA Allocation: The Parties have agreed that Ten Thousand Dollars
14 (\$10,000) of the Gross Settlement Amount shall be allocated to the resolution of all Settlement
15 Class Members' claims arising under PAGA (the "PAGA Allocation"). Pursuant to PAGA,
16 seventy-five percent (75%) of the PAGA Allocation shall be paid to the LWDA, and the remaining
17 25% shall be distributed evenly amongst all Settlement Class Members, regardless of whether the
18 Settlement Class Member is a Qualified Class Member, in exchange for the PAGA Release. The
19 Parties acknowledge and understand that the PAGA Allocation will be paid entirely from the Gross
20 Settlement Amount, regardless of the amount approved by the Court, and that any unapproved
21 amount of the PAGA Allocation shall be allocated to the Net Settlement Amount.

22 I. Settlement Administration Costs: The Settlement Administrator has agreed
23 to perform all necessary class administration duties for a fee estimated to be no more than Seven
24 Thousand Five Hundred Dollars (\$7,500). These administration duties shall include, without
25 limitation, searching for updated addresses before mailing Class Notices, performing necessary
26 skip traces on notices returned as undeliverable, calculating, processing, and mailing settlement
27 checks, handling tax withholding, contributions, reporting and filings. The Parties acknowledge
28 and understand that the Settlement Administrator's fees will be paid entirely from the Gross

1 Settlement Amount, regardless of the amount approved by the Court, and that any unapproved or
2 unused portion below the amount set forth in this paragraph shall be allocated to the Net Settlement
3 Amount.

4 29. Effective Date: The “Effective Date” is a condition of performance of the
5 obligations under this Settlement. The Effective Date is the latter of: (1) the date upon which an
6 order granting final approval or final judgment is entered, if no Objection (defined herein) to the
7 Settlement is timely received from a Settlement Class Member; or (2) if any Objection to the
8 Settlement is received, the last date after the final judgment by which a notice of appeal of the order
9 granting final approval or the final judgment may be timely filed, and none is filed; or (3) if any
10 Objection is received and a notice of appeal from the order granting final approval or the final
11 judgment is filed, the date on which the Superior Court’s order granting final approval or final
12 judgment is finally affirmed or upheld without any further right of appeal by any party or third
13 party and following the expiration of any such period for such further appeal that may be available.

14 30. Settlement Funding and Payment Timetable: Within fourteen (14) calendar days of
15 the Effective Date, Defendant will provide to the Settlement Administrator the Gross Settlement
16 Amount pursuant to this Settlement and the order and Judgment of final approval. The Settlement
17 Administrator shall be responsible for depositing the funds in the Settlement Account and solely
18 responsible for taking all necessary and reasonable steps to ensure the entirety of the funds are
19 securely deposited into and remain in the Settlement Account for the distributions specified in this
20 Agreement. Within ten (10) days of the Effective Date, the Settlement Administrator shall calculate
21 any Employer-side taxes due on the Gross Settlement amount and advise Defendant of same.
22 Defendant shall deposit any additional amount due, which the Parties believe will only be amounts
23 relating to the Overtime Share funds, within ten (10) days of being advised of the amount. Within
24 fourteen (14) calendar days of the Settlement Administrator’s receipt of the Gross Settlement
25 Amount from Defendant, the Settlement Administrator will make all required distributions
26 pursuant to this Settlement and the order and Judgment of final approval including, to the extent
27 ordered, all Settlement Shares to Qualified Class Members and Court-approved attorneys’ fees,
28 costs, enhancement payment, costs of settlement administration, and PAGA Allocation.

1 31. Resolution of Dispute: If any Settlement Class Member timely disputes the number
2 of his or her Total Workweeks, by way of a written dispute that is postmarked within the Notice
3 Period (as defined below) as provided for in the Class Notice, the dispute shall be determined by
4 the Settlement Administrator, who shall examine all available written records in an attempt to
5 resolve the dispute. Defendant's records shall be presumed accurate and control unless the
6 Settlement Class Member provides satisfactory proof that Defendant's records are incorrect. In
7 any event, the Settlement Administrator will make every reasonable effort to resolve any such
8 disputes before final approval of this Settlement. The Settlement Administrator's determination of
9 the eligibility for and amount of any Settlement Share shall be final, not subject to appeal, and
10 binding upon the Settlement Class Member and the Parties.

11 **NOTICE TO THE SETTLEMENT CLASS**

12 32. Subject to Court approval, the Parties agree that, within fourteen (14) calendar days
13 after the Court enters any Order granting preliminary approval of the Settlement, Defendant will
14 provide to the Settlement Administrator the following information for each Settlement Class
15 Member in a reasonable format requested by the Settlement Administrator: (1) name; (2) last known
16 home address and telephone numbers; (3) social security number; and (4) dates of employment
17 (collectively, the "Settlement Class Information"). The Settlement Administrator will perform
18 address updates and verifications, as necessary, prior to the first mailing. Within fourteen (14)
19 calendar days after the Settlement Administrator receives the Settlement Class Information from
20 Defendant, and subject to Court approval, the Settlement Administrator will mail the Class Notice
21 by first class mail.

22 **SETTLEMENT ADMINISTRATION**

23 33. Settlement Class Information. Any Settlement Class Information or other personnel
24 data provided by Defendant to the Settlement Administrator, shall be treated as confidential and
25 shall not be used by the Settlement Administrator for any purpose other than as permitted by this
26 Agreement. Settlement Class Information shall not be disclosed to Class Counsel, Plaintiff, or any
27 Settlement Class Member without the written consent of Defendant or order of the Court. Further,
28 the Settlement Administrator shall use commercially reasonable efforts to secure the data provided

1 by Defendant at all times so as to avoid inadvertent or unauthorized disclosure or use of such data
2 other than as permitted by this Agreement. At no time during the settlement process will any
3 Settlement Class Member's Social Security Number be filed with the Court, except under seal as
4 may be ordered by the Court. The Settlement Administrator shall ensure that the Notice and any
5 other communications to Settlement Class Members shall not include the Settlement Class
6 Members' Social Security Number, except for the last four digits.

7 34. Notice Period. Settlement Class Members will be afforded the opportunity to submit
8 an objection to the Settlement ("Objection") or to exclude themselves from the Settlement
9 ("Exclusion Request") by mail. Settlement Class Members will be permitted no more than forty-
10 five days (45) calendar days from the date the Class Notices are mailed by the Settlement
11 Administrator to postmark their Objection or Exclusion Request to the Settlement Administrator
12 (the "Notice Period"). To be valid, an Objection or Exclusion Request must be timely submitted
13 during the Notice Period and must follow the procedures outlined below. These procedures must
14 also be described in the Class Notice. A Settlement Class Member may not submit both an
15 Objection and an Exclusion Request; if a Settlement Class Member submits to Exclusion Request
16 to exclude himself or herself from the Settlement, he or she has no right to submit an Objection to
17 the Settlement.

18 35. Exclusion Requests. Any Settlement Class Member, other than Plaintiff, may elect
19 to submit an Exclusion Request during the Notice Period. To be effective, any such election: (i)
20 must be made in writing; (ii) must contain the name and sufficient information to verify the
21 individual's identity in the opinion of the Settlement Administrator, which may include address,
22 telephone number, and/or last four digits of the social security number of the Settlement Class
23 Member requesting exclusion; (iii) must be signed by the Settlement Class Member who is electing
24 to be excluded; and (iv) must be mailed to the Settlement Administrator on or before the end of the
25 Notice Period. As applicable, the date of the postmark on the mailing envelope shall be the
26 exclusive means to determine whether an Exclusion Request is timely. Any Settlement Class
27 Member who timely submits an Exclusion Request in compliance with these requirements shall not
28 be a Qualified Class Member, shall not be entitled to receive any Settlement Share, shall not be

1 entitled to submit an Objection to the Settlement Agreement, and shall not be bound by the terms
2 of this Settlement Agreement, except that the PAGA Release shall apply to all Settlement Class
3 Members and all Settlement Class Members shall still be entitled to his or her individual share of
4 the PAGA Allocation. Under no circumstances may any Settlement Class Member request
5 exclusion from that portion of the Settlement relating to the PAGA Allocation, and any request for
6 exclusion shall not have any effect on the PAGA Release, which shall remain in full force and
7 effect.

8 36. Objections: Any Qualified Class Member (one who does not timely seek exclusion
9 from the Settlement Agreement), other than Plaintiff, may submit an Objection to final approval of
10 this Settlement, provided that the Objection is made in writing and mailed to the Settlement
11 Administrator by no later than the last day of the Notice Period. As applicable, the date of the
12 postmark on the mailing envelope shall be the exclusive means to determine whether the Objection
13 is timely. An Objection must clearly state the name of the case and case number and must also
14 include the objector's full name, address, and the basis for any Objection and, if the objector is
15 represented by counsel, the name and address of the objector's counsel. The Objection must also
16 state whether the Qualified Class Member intends to appear at the final approval hearing and
17 present oral argument. At the Court's discretion, any Qualified Class Member who has not
18 complied with these requirements may not be heard at the final approval hearing. Any Qualified
19 Class Member who fails to comply with these requirements will be deemed to have waived any
20 right to submit an Objection to the Settlement Agreement. The Settlement Administrator shall
21 promptly forward any and all Objections that it receives to Class Counsel and Defendant's Counsel.

22 37. Re-mailing. The Settlement Administrator will perform one skip-trace on any
23 returned Class Notices and re-mail Class Notices to any updated address (if any) within seven (7)
24 calendar days of receipt of the returned mail for all returned mail received by the Settlement
25 Administrator by the conclusion of the Notice Period. The deadline for a Settlement Class Member,
26 who has been re-mailed the Class Notice, to submit the Exclusion Request, or to object to the
27 Settlement, shall be the later of the conclusion of the Notice Period or fifteen (15) calendar days
28

1 from the date the Class Notice is re-mailed. It is the intent of the Parties that the Settlement
2 Administrator use reasonable and customary means to locate Settlement Class Members.

3 38. Deficiency Notice. Within seven (7) calendar days of receipt by the Settlement
4 Administrator of any timely submitted, but deficient Exclusion Request, the Settlement
5 Administrator will send a deficiency notice to the Settlement Class Member regarding any
6 irregularities ("Deficiency Notice"). The Deficiency Notice will provide any applicable Settlement
7 Class Member no more than fifteen (15) calendar days from the mailing of any Deficiency Notice
8 to postmark the response to any deficiencies in writing. The failure of a Settlement Class Member
9 to cure a deficiency shall invalidate an Exclusion Request, unless counsel for both of the Parties
10 stipulate otherwise.

11 39. Weekly Report. On a weekly basis, the Settlement Administrator will advise Class
12 Counsel and Defendant's Counsel regarding the number of Exclusion Requests and/or Objections
13 that have been submitted. The Settlement Administrator shall be responsible for calculating the
14 Settlement Share for each Qualified Class Member, issuing payments to Qualified Class Members,
15 and performing all other settlement administration duties required by this Settlement Agreement.
16 Upon completion of the Notice Period, the Settlement Administrator shall provide Class Counsel
17 and Defendant's Counsel with a report listing the amount of all payments to be made to each
18 Qualified Class Member. Proof of Payment will be filed with the Court and provided to the Parties'
19 respective counsel.

20 40. Tax Payment. The Settlement Administrator shall withhold all payroll and income
21 taxes required by law to be withheld and/or paid on behalf of the employees from its distributions
22 to the Settlement Class, and report and remit the same to the appropriate government agencies. The
23 Settlement Administrator shall report individual settlement amounts to all required taxing and other
24 authorities, and issue IRS Forms W-2 and 1099. Upon completion of administration of the
25 Settlement, the Settlement Administrator shall provide written certification of such completion to
26 the Court and counsel for all Parties.

27 41. Settlement Checks. Checks issued by the Settlement Administrator to Qualified
28 Class Members for their respective Settlement Shares shall be negotiable for one hundred and

1 twenty (120) calendar days. At the conclusion of the 120-day period the checks shall be void. A
2 Qualified Class Member's act of negotiating his or her Settlement Share for payment shall operate
3 as, and be deemed to express, the Qualified Class Member's intent to opt in, join, settle, and fully
4 release and discharge all of the Settlement Class Released Claims, including any claims the
5 Qualified Class Member may have under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*

6 42. Uncashed Funds. With the sole exception of the residual, if any, resulting from any
7 Qualified Class Members' failure to deposit the check issued to them for their respective Settlement
8 Shares within the 120-day period provided above (hereafter, the "Residual"), the Parties agree that
9 Code of Civil Procedure section 384 ("Section 384") is not applicable to any portion of the Gross
10 Settlement Amount (including but not limited to any portion of the Net Settlement Amount).
11 Neither Plaintiff nor Class Counsel shall take, or cause any other person to take, a position before
12 the Court that Section 384 applies to any portion of the Gross Settlement Amount, with the sole
13 exception of the Residual. The Parties agree that any Residual will be distributed to the nonprofit
14 organization CASA of Contra Costa County, a child advocacy program that places Court Appointed
15 Special Advocates For Children (website is www.casaofalamedacounty.org), and accordingly there
16 will be no "unpaid cash residue and unclaimed or abandoned funds" within the meaning of Section
17 384. However, in the event the Residual is determined by the Court to constitute "unpaid cash
18 residue and unclaimed or abandoned funds" within the meaning of Section 384, the Residual shall
19 be distributed in compliance with Section 384, as directed by the Court after a hearing regarding
20 the actual amount paid to the class members, to the nonprofit organization CASA of Contra Costa
21 County.

22 **SETTLEMENT CLASS RELEASED CLAIMS AND PAGA RELEASE**

23 43. Other than the rights created by this Settlement Agreement, upon the Effective Date,
24 Plaintiff and each Qualified Class Member shall fully release and discharge the Released Parties
25 for the entire Class Period from any and all claims as follows:

26 A. Meal Period Subclass Members shall release the Released Parties from
27 causes of action, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses,
28 interest, attorneys' fees, penalties, and damages, whether suspected or unsuspected, contingent or

1 accrued, known or unknown, arising from the factual allegations and claims set forth in the Action,
2 and occurring during the Class Period relevant to that subclass (March 1, 2020 through September
3 21, 2023) that were alleged or could have been alleged based on the factual allegations related to
4 that subclass, including, without limitation: Class Allegations predicated on allegations of Meal
5 Period violations; any claims for alleged violations of California Labor Code sections 201, 202,
6 203, 204, 210, 226, 226.3, 226.7, 512, 558, 1174, and their subparts and applicable IWC Wage
7 Orders to the extent such claims are predicated on allegations of Meal Period violations; any
8 derivative claims for unpaid wages or penalties, and for unfair, unlawful, and fraudulent business
9 practices under the California Business and Professions Code sections 17200, *et seq.* to the extent
10 they are predicated on allegations of Meal Period violations; any other state or federal statute, rule,
11 or regulating arising from or relating to allegations of Meal Period violations; and all related
12 remedies of any nature whatsoever, including without limitation all claims for restitution and other
13 equitable relief, injunctive relief, statutory damages, liquidated damages, exemplary damages,
14 punitive damages, waiting-time penalties, statutory penalties, civil penalties, interest, attorneys'
15 fees, costs, and expenses to the extent they are predicated on allegations of Meal Period violations
16 (collectively, the "Meal Period Subclass Released Claims").

17 B. Overtime Subclass Members shall release the Released Parties from causes
18 of action, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses, interest,
19 attorneys' fees, penalties, and damages, whether suspected or unsuspected, contingent or accrued,
20 known or unknown, arising from the factual allegations and claims set forth in the Action, and
21 occurring during the Class Period relevant to that subclass (April 12, 2017 through September 21,
22 2023) that were alleged or could have been alleged based on the factual allegations related to that
23 subclass, including, without limitation: Class Allegations predicated on allegations of Regular Rate
24 or overtime violations; any claims for alleged violations of California Labor Code sections 201,
25 202, 203, 204, 210, 233, 246, 510, 558, 1174, 1194, and 1198 and their subparts and applicable
26 IWC Wage Orders to the extent such claims are predicated on allegations of Regular Rate or
27 overtime violations; any derivative claims for unpaid wages or penalties, and for unfair, unlawful,
28 and fraudulent business practices under the California Business and Professions Code sections

1 17200, *et seq.* to the extent they are predicated on allegations of Regular Rate or overtime
2 violations; any other state or federal statute, rule, or regulating arising from or relating to allegations
3 of Regular Rate or overtime violations; and all related remedies of any nature whatsoever, including
4 without limitation all claims for restitution and other equitable relief, injunctive relief, statutory
5 damages, liquidated damages, exemplary damages, punitive damages, waiting-time penalties,
6 statutory penalties, civil penalties, interest, attorneys' fees, costs, and expenses to the extent they
7 are predicated on allegations of Regular Rate or overtime violations (collectively, the "Overtime
8 Subclass Released Claims").

9 C. Wage Statement Subclass Members shall release the Released Parties from
10 causes of action, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses,
11 interest, attorneys' fees, penalties, and damages, whether suspected or unsuspected, contingent or
12 accrued, known or unknown, arising from the factual allegations and claims set forth in the Action,
13 and occurring during the Class Period relevant to that subclass (April 12, 2020 through September
14 21, 2023) that were alleged or could have been alleged based on the factual allegations related to
15 wage statements, including, without limitation: Class Allegations predicated on wage statement
16 violations; any claims for alleged violations of California Labor Code sections 226, 226.3, and 1174
17 and their subparts and applicable IWC Wage Orders to the extent such claims are predicated on
18 allegations of wage statement violations; any derivative claims for penalties, and for unfair,
19 unlawful, and fraudulent business practices under the California Business and Professions Code
20 sections 17200, *et seq.* to the extent they are predicated on allegations of wage statement violations;
21 any other state or federal statute, rule, or regulating arising from or relating to allegations of wage
22 statement violations; and all related remedies of any nature whatsoever, including without
23 limitation all claims for restitution and other equitable relief, injunctive relief, statutory damages,
24 liquidated damages, exemplary damages, punitive damages, waiting-time penalties, statutory
25 penalties, civil penalties, interest, attorneys' fees, costs, and expenses to the extent they are
26 predicated on allegations of wage statement violations (collectively, the "Wage Statement Subclass
27 Released Claims").
28

1 44. In addition, other than the rights created by this Settlement Agreement, upon the
2 Effective Date, Plaintiff, each Settlement Class Member, and the LWDA, in exchange for the
3 PAGA Allocation, shall fully release and discharge the Released Parties for the entire PAGA Period
4 from any and all claims seeking penalties, or any other relief under PAGA based on or arising from
5 the allegations in the Action, including and any claims that could have been asserted under PAGA
6 based on the facts and statutes pled in the Action, which include any applicable Industrial Welfare
7 Commission Wage Order and claims under the California Labor Code, including but not limited to
8 Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 233, 246, 510, 512, 558, 1182.12
9 et seq., 1174, 1194, 1197, 1198, and their subparts, and any and all claims for Plaintiff's costs,
10 expenses, interest, and attorneys' fees pertaining to them (collectively, the "PAGA Release").

11 **PLAINTIFF'S GENERAL RELEASE OF ALL CLAIMS**

12 45. Other than the rights created by this Settlement Agreement, in addition to the Meal
13 Period Subclass Released Claims, the Overtime Subclass Released Claims, the Wage Statement
14 Subclass Released Claims, and PAGA Release, Plaintiff individually and on behalf of each of her
15 executors, administrators, representatives, attorneys, successors and assigns knowingly and
16 voluntarily releases and forever discharges Defendant and the Released Parties, to the full extent
17 permitted by law, of and from any and all claims, known and unknown, asserted and unasserted,
18 which Plaintiff has or may have against the Released Parties as of the Effective Date of this
19 Settlement Agreement, including, but not limited to, any alleged violation of Title VII of the Civil
20 Rights Act of 1964; the Civil Rights Act of 1991; the Americans with Disabilities Act of 1990; the
21 Age Discrimination in Employment Act of 1967; the Family and Medical Leave Act; the Equal Pay
22 Act; the California Family Rights Act – Cal. Gov't Code § 12945.2; the California Fair
23 Employment and Housing Act – Cal. Gov't Code § 12900 *et seq.*; the California Equal Pay Law –
24 Cal. Lab. Code § 1197.5; any other federal, state or local civil or human rights law or any other
25 federal, state or local law, regulation or ordinance; any public policy, contract, tort or common law;
26 or; any basis for fees or other expenses including attorneys' fees incurred in these matters.

27 46. To affect a full and complete general release as described above, Plaintiff expressly
28 waives and relinquishes all rights and benefits of section 1542 of the Civil Code of the State of

1 California, and does so understanding and acknowledging the significance and consequence of
2 specifically waiving section 1542. Section 1542 of the Civil Code of the State of California
3 provides, "A general release does not extend to claims that the creditor or releasing party does not
4 know or suspect to exist in his or her favor at the time of executing the release and that, if known
5 by him or her, would have materially affected his or her settlement with the debtor or released
6 party." Thus, notwithstanding the provisions of section 1542, and to implement a full and complete
7 release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement
8 Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know
9 or suspect to exist in their favor at the time of the Effective Date of this Settlement Agreement, and
10 that this Settlement Agreement contemplates the extinguishment of any such claims.

11 **DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL**

12 47. The Parties shall promptly submit this Settlement Agreement to the Court in support
13 of a request for preliminary approval and determination by the Court as to its fairness, adequacy,
14 and reasonableness. Promptly upon execution of this Settlement Agreement, the Parties shall apply
15 to the Court for the entry of an order of preliminary approval, substantially in the form attached
16 hereto as "**Exhibit B**," which shall:

17 A. Schedule a final fairness hearing on the question of whether the proposed
18 Settlement should be finally approved as fair, reasonable and adequate as to the Settlement Class.

19 B. Certify the Settlement Class for settlement purposes only;

20 C. Certify this action under Code of Civil Procedure section 382 and Rule
21 3.760, *et seq.*, of the California Rules of Court as a class action for settlement purposes only;

22 D. Approve as to form and content the proposed Class Notice;

23 E. Approve the Settlement Administrator and preliminarily approve the
24 estimated costs of settlement administration;

25 F. Direct the Settlement Administrator to mail the Class Notice by first class
26 mail to the Settlement Class Members;

27 G. Preliminarily approve the Settlement subject only to the Objections of
28 Settlement Class Members and final review by the Court;

1 H. Preliminarily approve Class Counsel's attorneys' fees and costs subject to
2 final review of the Court; and

3 I. Preliminarily approve the Plaintiff's service fee awards subject to final
4 review of the Court.

5 **DUTIES OF THE PARTIES PRIOR TO FINAL APPROVAL**

6 48. In advance of the final approval hearing, Class Counsel will submit to the Court a
7 proposed order of final approval and Judgment, substantially in the form attached hereto as
8 "Exhibit C," which shall:

9 A. Approve the Settlement, adjudging the terms thereof to be fair, reasonable
10 and adequate, and directing consummation of its terms and provisions;

11 B. Approve the award of attorneys' fees and costs to Class Counsel;

12 C. Approve the enhancement award to Plaintiff as set forth in the Settlement;
13 and

14 D. Approve the administration costs of the Settlement Administrator as set forth
15 in the Settlement.

16 **FINAL JUDGMENT AND CONTINUING JURISDICTION**

17 49. If the Court approves this Settlement at the Final Approval Hearing, the Parties shall
18 request that the Court enter the Final Judgment after the Settlement has been fully funded,
19 incorporating the terms of the Settlement in accordance with California Rules of Court, Rule
20 3.769(h). Pursuant to California Rule of Court 3.769(h), after granting final approval of the
21 Settlement, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment.

22 **PARTIES' AUTHORITY**

23 50. The signatories hereto hereby represent that they are fully authorized to enter into
24 this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

25 **MUTUAL FULL COOPERATION**

26 51. The Parties agree to fully cooperate with each other to accomplish the terms of this
27 Settlement Agreement, including but not limited to, execution of such documents and to take such
28 other action as may reasonably be necessary to implement the terms of this Settlement Agreement.

1 The Parties to this Settlement Agreement shall use their best efforts, including all efforts
2 contemplated by this Settlement Agreement and any other efforts that may become necessary by
3 order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth
4 herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall,
5 with the assistance and cooperation of Defendant and their counsel, take all necessary steps to
6 secure the Court's preliminary and then final approval of this Settlement.

7 **NO PRIOR ASSIGNMENTS**

8 52. The Parties hereto represent, covenant, and warrant that they have not directly or
9 indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
10 person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
11 released and discharged except as set forth herein.

12 **NO ADMISSION OF LIABILITY**

13 53. Nothing contained herein, nor the consummation of this Settlement Agreement, is
14 to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the
15 part of Defendant. Defendant expressly denies that it has violated the law in any manner and
16 affirmatively asserts that its wage and hour practices, and any other acts related to its employees,
17 are and have been in full compliance with all applicable statutes and regulations. This Settlement
18 Agreement is a settlement document and shall, pursuant to California Evidence Code section 1152,
19 be inadmissible as evidence in any proceeding except a proceeding to enforce its terms. Each of
20 the Parties hereto has entered into this Settlement Agreement with the intention to avoid further
21 disputes and litigation with the attendant inconvenience and expenses.

22 **CONSTRUCTION**

23 54. The Parties hereto agree that the terms and conditions of this Settlement Agreement
24 are the result of lengthy, arms-length negotiations between the Parties, and that this Settlement
25 Agreement shall not be construed in favor of or against any party by reason of the extent to which
26 any party or her or its counsel participated in this drafting of this Settlement Agreement.

27 **CAPTIONS AND INTERPRETATIONS**

MODIFICATION

DEFENDANT'S RIGHT TO RESCISSION

INTEGRATION CLAUSE

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

1 by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived
2 except in writing.

3 **BINDING ON ASSIGNS**

4 60. This Settlement Agreement shall be binding upon and inure to the benefit of the
5 Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

6 **SIGNATORIES**

7 61. It is agreed that because of the large number of Settlement Class Members, it is
8 impossible or impractical to have each Settlement Class Member execute this Settlement
9 Agreement. The Class Notice will advise all Settlement Class Members of the binding nature of
10 the release and such shall have the same force and effect as if this Settlement Agreement were
11 executed by each Settlement Class Member.

12 **PUBLIC COMMENT**

13 62. The Parties and their counsel agree that they will not issue any press releases, initiate
14 any contact with the press, respond to any press inquiry or have any communication with the press
15 about the fact, amount or terms of this Settlement. In addition, the Parties and their counsel agree
16 that they will not engage in any advertising or distribute any marketing materials relating to the
17 settlement of this case in any manner that identifies Defendant, including but not limited to any
18 postings on any websites maintained by Class Counsel except as explicitly provided below. Neither
19 Plaintiff nor Class Counsel will discuss the terms or the fact of the settlement with third parties
20 other than (1) their immediate family members, (2) their respective accountants or lawyers as
21 necessary for tax purposes; or (3) other Settlement Class Members. Plaintiff and Class Counsel
22 agree not to publish any of the terms or conditions of this Settlement in any manner that identifies
23 Defendant. The only limited exception is that Class Counsel may identify the fact of the Settlement
24 of this action in a court filing in another case to demonstrate their adequacy as counsel in such other
25 matters, but in no event shall Class Counsel identify the amount of this Settlement as associated
26 with Defendant. In the event that Class Counsel seeks to reference this settlement, Class Counsel
27 must receive express written consent to do so from Defendant's counsel prior to its publication.
28 Defendant shall act in good faith and shall not unreasonably withhold such approval if requested.

COUNTERPARTS

63. 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 Settlement Agreement, which shall be binding upon and effective as to all Parties. Copies of the executed Settlement Agreement shall be effective for all purposes as though the signatures contained therein were original signatures.

Dated: 9/15/2023

DocuSigned by:

Samantha Owens

43D2BDD9E500A470...

Samantha Owens
Plaintiff/Class Representative

Dated: 09/21/2023

Madeline G. M. Lovejoy
By: Madeline G. M. Lovejoy
Assistant Vice President and Assistant Secretary
Fidelity National Home Warranty Company

APPROVED AS TO FORM

MAYALL HURLEY P.C.

Dated: September 15, 2023

By: *Jed B.*

Robert J. Wassermann
Jenny D. Baysinger
Attorneys for Plaintiff and Settlement Class

LITTLER MENDELSON, P.C.

Dated: September 21, 2023

By: *Angela J. Rafoth*

Angela J. Rafoth
Attorneys for Defendant