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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**
11

12 MARCUS FRENCH, as an individual and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 LONZA BIOLOGICS INC., a Delaware
17 corporation; and DOES 1 through 50,
18 inclusive.

19 Defendants.
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Case No. 21STCV08097

**SECOND AMENDED JOINT
STIPULATION OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AND RELEASE**

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20 LONZA BIOLOGICS INC.

1 **I. INTRODUCTION**

2 This Joint Stipulation of Class and Representative Action Settlement and Release
3 ("Settlement Agreement" or "Agreement") is made and entered into by and between Plaintiff
4 Marcus French and Defendant Lonza Biologics Inc. It sets forth the Parties' class and
5 representative action settlement to resolve all of the claims asserted in the above-captioned action
6 and any claims that could have been alleged in the above-captioned action and is subject to Court
7 approval.

8 **II. DEFINITIONS**

9 The following definitions are applicable to the Settlement Agreement. Definitions
10 contained elsewhere in the Settlement Agreement also shall be applicable.

11 1. "Action" means *Marcus French v. Lonza Biologics Inc.*, Los Angeles County
12 Superior Court Case No. 21STCV08097.

13 2. "Class Counsel" means Zachary Crosner, Blake Jones, and Chad Saunders of
14 Crosner Legal, PC.

15 3. "Class Counsel Award" means the total amount to be paid to Class Counsel,
16 including Class Counsel Fees and Class Counsel Expenses, subject to the Court's final approval of
17 the Settlement. Any amount of Class Counsel Award not awarded to Class Counsel shall be added
18 to the Net Class Settlement Amount.

19 4. "Class Counsel Expenses" means the amount of actual litigation expenses Class
20 Counsel incurred in connection with this Action, including without limitation, their pre-filing
21 investigation, their filing of the Action and all related litigation activities, the costs associated with
22 mediation and resolution of this Action, this Settlement and filing for Court approval, and all post-
23 Settlement compliance procedures. Defendant agrees not to object to a request that the Court
24 approve Class Counsel Expenses of up to Fifteen Thousand Dollars (\$15,000).

25 5. "Class Counsel Fees" means the amount of attorneys' fees paid to compensate Class
26 Counsel for their services rendered, and to be rendered, to Plaintiff and the Class in connection
27 with the Action. Defendant agrees not to oppose Class Counsel Fees of up to 33.3% percent of
28 the Gross Settlement Amount or One Hundred Eighty-Five Thousand Three Hundred Fourteen

Dollars and Fifty Cents (\$185,314.50), subject to the Court’s final approval of the Settlement.

6. “Class List” means a list of Settlement Class Members and PAGA Representative Action Members that Defendant will compile from its records, which shall include, to the extent available in Defendant’s business records: each Settlement Class Member’s and each PAGA Representative Action Member’s full name; last known address; employee ID number; and Social Security number, and number of Qualifying Workweeks. The Class List shall be formatted as a Microsoft Excel spreadsheet or equivalent format and shall be provided to the Settlement Administrator after Preliminary Approval of this Settlement.

7. “Qualifying Workweeks” means all weeks in which a Settlement Class Member worked for Defendant as a non-exempt employee in California at any time during the period from March 2, 2017, through January 1, 2022, excluding weeks when the Settlement Class Member was on leave for the entire week.

8. “Class Period” means the period from March 2, 2017, through January 1, 2022.

9. “Complaint(s)” means the Complaint filed in Los Angeles County Superior Court on March 2, 2021 (Case No. 21STCV08097) and any amendments thereto.

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

11. “Defendant” means Lonza Biologics Inc.

12. “Defense Counsel” means Winston & Strawn LLP.

13. “Effective Date” means the latest of: (i) if there are no objectors or intervenors, then the date the Court finally approves this Agreement; (ii) if there are objectors or intervenors but no appeal is filed, the expiration date of the time for filing or noticing any appeal of the order approving the settlement and/or entry of judgment; (iii) if there is an appeal of the Court’s judgment, the date the order and judgment approving the Settlement are affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court; or (iv) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the order and judgment approving the settlement are affirmed pursuant to such petition.

14. “Gross Settlement Amount” means the total amount of five hundred fifty-six

1 thousand and five hundred dollars (\$556,500.00) that Defendant is required to pay under this
2 Settlement Agreement for full and complete settlement of the Action, which will satisfy: the
3 Individual Class Settlement Payments to Participating Settlement Class Members, the Individual
4 PAGA Settlement Payments to PAGA Representative Action Members, the Representative Service
5 Award to Plaintiff, the portion of the PAGA Amount to be paid to the LWDA, the Settlement
6 Administration Costs to the Settlement Administrator, and the Class Counsel Award. In no event
7 will Defendant ever be required to pay more than the Gross Settlement Amount of \$556,500.00,
8 except that Defendant shall pay the employer's share of the payroll taxes separately from and in
9 addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount shall revert
10 back to Defendant.

11 15. "Individual PAGA Payment" means each Representative Action Member's share of
12 the PAGA Amount calculated in accordance with the calculations described in Paragraph III.13.b.

13 16. "Individual Settlement Share" means each Participating Settlement Class Member's
14 share of the Net Class Settlement Amount calculated in accordance with the calculations described
15 in Paragraph III.13.a. Payment of an Individual Settlement Share shall be referred to as an
16 "Individual Class Settlement Payment."

17 17. "LWDA" means the California Labor and Workforce Development Agency.

18 18. "Net Class Settlement Amount" means the portion of the Gross Settlement Amount
19 remaining after deduction of the Representative Service Award, the Settlement Administration
20 Costs, the Class Counsel Award, and the PAGA Amount. The entire Net Class Settlement Amount
21 will be distributed to Participating Settlement Class Members.

22 19. "Notice of Settlement" means the notice (substantially in the form attached hereto
23 as Exhibit A) that the Court approves and orders to be sent to all Settlement Class Members and
24 PAGA Representative Action Members advising them of the terms of the Settlement and their
25 rights under the Settlement Agreement.

26 20. "PAGA Amount" means an amount not to exceed \$55,650.00 attributable to
27 Plaintiff's claims pursuant to the California Private Attorneys General Act of 2004, California
28 Labor Code section 2698 *et seq.* ("PAGA"), which shall be allocated between the LWDA and

PAGA Representative Action Members as described in Paragraph III.3 of this Agreement.

21. “PAGA Period” means the period from December 27, 2019, through January 1, 2022.

22. “PAGA Released Claims” means any and all claims, demands, damages, debts, liabilities, actions, causes, and/or causes of action arising or accruing during the PAGA Period for civil penalties pursuant to PAGA that were asserted in Plaintiff’s letter to the LWDA alleging Labor Code violations and/or that could have been asserted in Plaintiff’s letter to the LWDA alleging Labor Code violations based on the facts and/or legal allegations alleged in Plaintiff’s letter to the LWDA alleging Labor Code violations. The PAGA Released Claims include, but are not limited to, all claims for PAGA civil penalties during the PAGA Period (under California Labor Code section 2698 *et seq.*) premised on alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 221-223, 225.5, 226, 226.6, 226.7, 233-234, 245-249, 256, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2810.5; all applicable Industrial Welfare Commission Wage Orders, including, No. 1-2001; California Civil Code § 1786 *et seq.*; and 15 U.S.C. § 1681 *et seq.* The release shall include all the above claims through January 1, 2022.

23. “PAGA Representative Action Members” means all current and former non-exempt employees of Defendant in the State of California during the PAGA Period.

24. “Participating Settlement Class Members” means all Settlement Class Members who do not submit a valid letter requesting to be excluded from the Settlement, consistent with the terms set forth in the Settlement Agreement.

25. “Parties” means Plaintiff and Defendant, collectively.

26. “Plaintiff” means the named plaintiff in the Action, Marcus French.

27. “Preliminary Approval” means the Court order granting preliminary approval of the Settlement Agreement.

28. “Final Approval” means the court granting final approval of the Settlement Agreement.

29. “Randolph Settlement Class Members” means individuals who participated in

1 settlements of the following cases formerly pending in the Superior Court of California, County of
2 Los Angeles: *Randolph v. Baxalta US Inc.*, et al., Case No. BC667176 and *Martinez v. Baxalta US*
3 *Inc.*, Case No. BC705969.

4 30. “Qualified Settlement Account” means the account established by the Settlement
5 Administrator, into which the Gross Settlement Amount shall be deposited. In addition, and as an
6 amount separate from the Gross Settlement Amount, Defendant shall also transmit the employer-
7 side taxes on the wage portion of the Individual Class Settlement Payments to the Settlement
8 Administrator for deposit into the Qualified Settlement Account.

9 31. “Released Class Claims” means any and all claims, demands, damages, debts,
10 liabilities, actions, causes, and/or causes of action arising or accruing at any during the Class
11 Period that were asserted in the First Amended Complaint and/or that could have been asserted in
12 the First Amended Complaint based on the facts and/or legal allegations alleged in the First
13 Amended Complaint, including claims for: failure to pay for all hours worked; failure to pay
14 minimum wages; failure to pay overtime wages; failure to adopt a valid alternative workweek
15 schedule; failure to provide rest periods; failure to provide meal periods; failure to pay all wages
16 upon termination; failure to provide accurate wage statements; unfair competition based upon the
17 alleged Labor Code violations; restitution for any of the foregoing; any penalties, including
18 statutory and civil penalties, related to any or all of the foregoing; attorneys’ fees or costs related
19 to any or all of the foregoing; interest related to any or all of the foregoing; and/or any other
20 damages or amounts related to any or all of the foregoing. The release includes, but is not limited
21 to, any and all claims pursuant to: California Business and Professions Code section 17200 *et seq.*
22 based upon the alleged Labor Code violations; California Labor Code sections 201, 201.3, 202,
23 203, 204, 204.1, 204.2, 226, 226.7, 245-249, 510, 511, 512, 1174, 1174.5, 1175, 1194, 1194.2,
24 1197, 2802, and the applicable California Industrial Welfare Commission Wage Orders. The
25 release shall include all the above claims through January 1, 2022.

26 32. “Released Parties” means Defendant, its ultimate parent, Lonza Group, Ltd. and
27 Lonza Group, Ltd.’s direct and indirect subsidiaries; each of their present, former, or future
28 owners, officers, directors, shareholders, employees, insurers, successors and assigns,

1 predecessors, managing agents, and representatives and/or attorneys; and any all entities that
2 Plaintiff, a Settlement Class Member, and/or a PAGA Representative Action Member may assert
3 were joint employers with Defendant at the time such individual was working for Defendant.

4 33. "Representative Service Award" means the amount that the Court authorizes to be
5 paid to Plaintiff, in addition to his Individual Class Settlement Payment and Individual PAGA
6 Payment (if any), in recognition of his efforts and work in prosecuting the Action on behalf of
7 Settlement Class Members and PAGA Representative Action Members. Subject to the Court's
8 final approval, the Parties agree that Plaintiff shall be paid up to Ten Thousand Dollars
9 (\$10,000.00) from the Gross Settlement Amount.

10 34. "Response Deadline" means the deadline by which Settlement Class Members must
11 postmark their request to be excluded from the Settlement or dispute of information in the Notice
12 of Settlement, via mail, to the Settlement Administrator. The Response Deadline is also the
13 deadline by which Settlement Class Members must mail any objections to the Settlement
14 Administrator. The Response Deadline shall be sixty (60) calendar days from the initial mailing of
15 the Notice of Settlement by the Settlement Administrator, unless the 60th day falls on a Sunday or
16 federal holiday, in which case the Response Deadline will be extended to the next day on which
17 the U.S. Postal Service is open.

18 35. "Settlement Administration Costs" means the expenses payable from the Gross
19 Settlement Amount to the Settlement Administrator for administering the Settlement, including,
20 but not limited to, printing, distributing, and tracking forms and notices for the Settlement, tax
21 reporting, establishing a Qualified Settlement Amount, administering and distributing payments
22 from the Gross Settlement Amount pursuant to the terms of the Settlement Agreement, and
23 providing necessary reports and declarations, as requested by the Parties. Any portion of the
24 Settlement Administration Costs not approved by the Court shall be added to the Net Class
25 Settlement Amount.

26 36. "Settlement Administrator" means Simpluris, Inc, the third-party class action
27 settlement administrator mutually agreed to by the Parties to handle the administration of the
28 Settlement, subject to approval by the Court.

1 37. “Settlement Agreement” or “Agreement” means this Joint Stipulation of Class and
2 Representative Action Settlement and Release.

3 38. “Settlement Class” and “Settlement Class Member(s)” means all of Defendant’s
4 non-exempt employees in the State of California during the Class Period, Defendant represents
5 that, as of June 18, 2021, there were no more than 224 Settlement Class Members with no more
6 than 17,982 workweeks worked during the Class Period. Defendant derived this data, in part, by
7 extrapolating data to and including October 2, 2017.

8 39. “Settlement” means the Parties’ agreement to compromise the Action, the material
9 terms of which are set forth in the Settlement Agreement.

10 **III. TERMS OF AGREEMENT**

11 1. Terms of Agreement Subject to Court Approval. All terms set forth in the
12 Settlement Agreement are subject to Court approval. The Parties stipulate to class certification only
13 for purposes of the Settlement. Plaintiff shall apply to the Court for approval of the Settlement
14 Agreement and for class certification solely for purposes of effectuating the Settlement. Defendant
15 shall not oppose this application. If, for any reason, the Settlement is not approved, the stipulation
16 to certification will be void. The Parties further agree that certification for purposes of the
17 Settlement is not an admission that class certification is proper under the standard applied to
18 contested certification motions and that the Settlement will not be admissible in this, or any other,
19 legal process as evidence that (i) a class should be certified, (ii) representative treatment is
20 appropriate, or (iii) Defendant is liable to Plaintiff or any of the Settlement Class Members.

21 2. Funding of the Gross Settlement Amount. Within thirty (30) calendar days of the
22 Effective Date, Defendant shall deposit into the Qualified Settlement Account the Gross
23 Settlement Amount and employer-side taxes on the wage portion of the Individual Class
24 Settlement Payments. The funds in the Qualified Settlement Account shall be used to pay:
25 (1) Individual Class Settlement Payments; (2) Individual PAGA Settlement Payments; (3) the
26 LWDA’s portion of the PAGA Amount; (4) the Class Counsel Award; (5) the Representative
27 Service Award payment; (6) Settlement Administration Costs; and (7) all employer’s and
28 employee’s withholdings and taxes associated with the wage-portion of Individual Class

1 Settlement Shares.

2 3. PAGA Amount. Subject to Court approval, \$55,650.00 from the Gross Settlement
3 Amount shall be designated for satisfaction of the PAGA Released Claims. Pursuant to PAGA,
4 Seventy-Five Percent (75%), or \$41,737.50, of the PAGA Amount shall be paid to the LWDA and
5 Twenty-Five Percent (25%), or \$13,912.50, shall be distributed proportionally among the PAGA
6 Representative Action Members on a pro rata basis, as described below. If the PAGA Amount is
7 adjusted by the Court, it shall be adjusted by using funds from the Gross Settlement Amount and
8 in no event shall increase the Gross Settlement Amount.

9 4. Representative Service Award. In exchange for a general release, and in recognition
10 of Plaintiff's efforts and work in prosecuting the Actions on behalf of Settlement Class Members
11 and PAGA Representative Action Members, Defendant agrees not to oppose any application or
12 motion for a Representative Service Award payment to Plaintiff not to exceed Ten Thousand
13 Dollars (\$10,000.00). The Representative Service Award payment, which shall be paid from the
14 Gross Settlement Amount, shall be in addition to the Plaintiff's Individual Class Settlement
15 Payment and Individual PAGA Settlement Payment (if any) paid pursuant to the Settlement. The
16 Settlement Administrator shall issue an IRS Form 1099 for the Representative Service Award.
17 Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on the payments
18 made pursuant to this Paragraph and shall hold Defendant harmless from any claim or liability for
19 taxes, penalties, or interest arising as a result of the payment. Any reduction in the amount of the
20 Representative Service Award by the Court shall remain in the Net Class Settlement Amount to be
21 distributed to Participating Settlement Class Members.

22 5. Settlement Administration Costs. The Settlement Administrator shall be paid for the
23 costs of administration of the Settlement and distribution of all payments from the Gross
24 Settlement Amount. The estimate of the Settlement Administration Costs is \$5,500. These costs,
25 which shall be paid from the Gross Settlement Amount, shall be used to administer the Settlement,
26 including, *inter alia*, preparing the required tax reporting on the Individual Settlement Payments,
27 issuing 1099 and W-2 IRS Forms, distributing the Notices of Settlement, establishing a Qualified
28 Settlement Account, calculating Individual Class Settlement Payments and Individual PAGA

1 Settlement Payments, processing exclusion requests, distributing the Net Class Settlement Amount
2 as directed by the Court and as set forth herein, and providing necessary reports and declarations.
3 No fewer than ten (10) calendar days before the Final Approval hearing, the Settlement
4 Administrator shall provide the Court and all counsel for the Parties with a statement detailing the
5 Settlement Administration Costs, the notice program, and calculation of Individual Class
6 Settlement Payments and Individual PAGA Settlement Payments. The Parties agree to cooperate
7 in the settlement administration process and to make all reasonable efforts to control and minimize
8 the costs and expenses incurred in the administration of the Settlement. An IRS Form 1099 shall
9 be issued to the Settlement Administrator. Any portion of the Settlement Administration Costs that
10 are not used or which are not awarded by the Court will not revert to Defendant, but instead will
11 be part of the Net Class Settlement Amount for distribution to Participating Settlement Class
12 Members. If the Settlement Administration Costs exceed \$5,500, such cost will be deducted from
13 the Net Class Settlement Amount.

14 6. Payment of Class Counsel Award. Defendant agrees not to oppose any application
15 or motion by Class Counsel for Class Counsel Fees not to exceed One Hundred Eighty-Five
16 Thousand Three Hundred and Fourteen Dollars and Fifty Cents (\$185,314.50), and Class Counsel
17 Costs not to exceed \$15,000. The Class Counsel Award shall be paid out of the Gross Settlement
18 Amount. Any portion of the Class Counsel Award not awarded to Class Counsel shall be returned
19 to the Net Class Settlement Amount for distribution to Participating Settlement Class Members.
20 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment
21 made pursuant to this Paragraph. IRS Form 1099 shall be provided to Class Counsel for the
22 payments made pursuant to this Paragraph.

23 7. Notice Procedure. The Settlement Administrator shall be responsible for the
24 following notice procedure.

25 a. Delivery of the Class List. Within five (5) business days after Preliminary
26 Approval, Defendant shall provide the Class List to the Settlement Administrator. The Settlement
27 Administrator shall keep the Class List confidential and shall not disclose it to anyone, except: (i)
28 to carry out reasonable efforts described below; (ii) if a Settlement Class Member seeks

1 information from Class Counsel regarding the Settlement, the Settlement Administrator may share
2 information with Class Counsel that is contained in the Class List regarding that particular
3 Settlement Class Member to the extent necessary to respond to the question or issue, except that
4 the Settlement Administrator will not share Social Security Numbers with Class Counsel; or (iii)
5 pursuant to Defendant's express written authorization.

6 b. Notice by First-Class U.S. Mail. Within ten (10) calendar days of receiving
7 the Class List, the Settlement Administrator shall send the Notice of Settlement to all Settlement
8 Class Members and PAGA Representative Action Members via First Class U.S. Mail using the
9 most current mailing addresses identified. The Settlement Administrator shall conduct reasonable
10 verification measures relating to the addresses before the mailing, including checking the
11 addresses with the National Change of Address of Database.

12 c. Procedure for Lost and Undeliverable Notices. Any Notice of Settlement
13 returned to the Settlement Administrator as non-delivered on or before the Response Deadline
14 shall be sent to the forwarding address affixed thereto. If no forwarding address is provided, the
15 Settlement Administrator shall promptly attempt to determine a correct address using a skip-trace,
16 or other search using the name, address and/or Social Security number of the Settlement Class
17 Member and/or PAGA Representative Action Member involved, and shall re-mail the Notice of
18 Settlement. If after performing a skip-trace search, the Settlement Class Member's Notice of
19 Settlement is again returned to the Settlement Administrator as non-deliverable, that Settlement
20 Class Member will be deemed a Participating Settlement Class Member, and the Settlement
21 Administrator will have no further obligation to undertake efforts to obtain an alternative address.
22 If after performing a skip-trace search, the PAGA Representative Action Member's Notice of
23 Settlement is again returned to the Settlement Administrator as non-deliverable, the Settlement
24 Administrator will have no further obligation to undertake efforts to obtain an alternative address,
25 but the PAGA Representative Action Member shall be deemed a Participating PAGA
26 Representative Action Member. The Response Deadline for any Settlement Class Member who is
27 re-mailed a Notice of Settlement shall be extended fifteen (15) calendar days from the original
28 Response Deadline. If the Response Deadline for any Settlement Class Member is later than the

original 60 day deadline, the Settlement Administrator shall include a letter with the Notice of Settlement advising the Settlement Class Member of the adjustment to the Response Deadline.

8. Request for Exclusion Procedure. The Notice of Settlement shall give Settlement Class Members instructions on how to exclude themselves, or “opt out,” from the Settlement.

a. Settlement Class Members who wish to opt out of the Settlement shall notify the Settlement Administrator in writing by mail that they want to exclude themselves (*i.e.*, opt out) from the Settlement. The request to opt out sent to the Settlement Administrator must be postmarked no later than the Response Deadline.

b. The proposed order granting Preliminary Approval of the Settlement will provide, and the Notice of Settlement will instruct Settlement Class Members, that, to be valid, a written request to opt out of the Settlement Agreement must include the Settlement Class Member’s name, address, last four digits of his/her social security number, and signature and state the following: I wish to opt-out of the settlement of the lawsuit titled *French v. Lonza Biologics Inc.* (or words to the similar effect).

c. A Settlement Class Member who properly and timely submits a request to opt out of the Settlement Agreement will not become a Participating Settlement Class Member, will not be allowed to object to this Settlement Agreement, and will not be bound by the Settlement Agreement.

d. Counsel for the Parties shall not discourage any Settlement Class Member from participating in, objecting to, or opting out of the Settlement.

e. If ten percent (10%) or more of the Settlement Class Members opt out, then Defendant shall have the right, in its sole discretion, to void and revoke the Settlement Agreement and its stipulation to class certification. After the Settlement Administrator sends its report of the final number of Settlement Class Members who have opted out, the Defendant shall have ten (10) calendar days from the receipt of the Settlement Administrator’s report to notify the Class Counsel in writing of its intent to revoke the Settlement Agreement and the conditional class certification. In the event that Defendant exercises its option to revoke the Settlement Agreement, Defendant agrees to pay the Settlement Administration Costs incurred by the Settlement Administrator up to the date

1 of Defendant's notice to revoke.

2 9. Objections. Any Settlement Class Member who has not timely and properly opted
3 out (*i.e.*, any Participating Settlement Class Member) may object to the proposed Settlement of the
4 Class Released Claims in writing. To object, a Participating Settlement Class Member must submit
5 his/her written objection by the Response Deadline. A Participating Settlement Class member is
6 not required to provide advance notice of the intent to appear at the Final Approval Hearing. All
7 written objections must include: (a) the objector's full name, current address, and telephone
8 number; (b) the case name and number (*French v. Lonza Biologics Inc.*, Case No. 21STCV08097);
9 (c) the basis of the objection, including the reasons why the objector believes that the Court should
10 find that the Settlement is not in the best interests of the Settlement Class and why the Settlement
11 should not be approved; and (d) any and all supporting papers (including, without limitation, all
12 briefs, written evidence, and declarations) for which the objection is based. The written objection
13 must be mailed to the Settlement Administrator, who will forward the objection to the Parties for
14 submission to the Court, and must be postmarked on or before the Response Deadline. The
15 postmark date of the mailing shall be deemed the exclusive means for determining that a written
16 objection is timely. Settlement Class Members shall be permitted to withdraw their objections in
17 writing by submitting a withdrawal statement to the Settlement Administrator, orally at the Final
18 Approval hearing, or as otherwise ordered by the Court. A Settlement Class Member who fails to
19 make objections in a manner specified above and by the deadline specified in this Paragraph shall
20 be deemed to have waived any objection and shall be foreclosed from making any objections to
21 the Settlement (whether by appeal or otherwise). Settlement Class Members may present their
22 objections at the Final Approval Hearing, regardless of whether they submitted a written objection.

23 10. The Settlement Terms Bind All Settlement Class Members Who Do Not Opt-Out.
24 Any Settlement Class Member who does not affirmatively opt-out of the Settlement Agreement by
25 submitting a timely and valid letter requesting exclusion from the Settlement, consistent with the
26 terms of the Settlement Agreement and upon payment of Individual Class Settlement Payments,
27 shall be bound by all its terms, including those pertaining to the Class Released Claims and PAGA
28 Released Claims, as well as any judgment that may be entered by the Court after it grants Final

1 Approval of the Settlement.

2 11. No PAGA Opt-Out. No PAGA Representative Action Member may opt out of or be
3 excluded from participating in the settlement of the PAGA Released Claims. All PAGA
4 Representative Action Members shall be bound by the judgment entered herein and will have
5 released the PAGA Released Claims if/when the Court grants final approval of this Settlement. If
6 the Court grants final approval of the Settlement, and all payments have been made to the PAGA
7 Representative Action Members, the Final Approval Order and Judgment shall forever bar
8 Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including but not
9 limited to any and all PAGA Representative Action Members from pursuing any action pursuant to
10 PAGA against the Released Parties.

11 12. Certification Reports Regarding Requests for Exclusion and Disputes. The
12 Settlement Administrator shall provide Class Counsel and Defense Counsel a weekly report which
13 certifies: (a) the number of Settlement Class Members who have submitted a letter requesting
14 exclusion from the Settlement, including a statement as to whether the letter is valid or defective;
15 (b) whether any Settlement Class Member has submitted a challenge to any information contained
16 in their Notice of Settlement; and (c) the number of returned, undeliverable and/or re-mailed
17 Notices of Settlement. Additionally, the Settlement Administrator will provide to counsel for both
18 Parties any updated reports regarding the administration of the Settlement Agreement as needed or
19 requested.

20 13. Settlement Share Calculations. The Settlement Administrator shall determine the
21 amounts of any Individual Settlement Shares and Individual PAGA Payments.

22 a. The Settlement Administrator will calculate the Individual Settlement
23 Payment amount for each Participating Settlement Class Member. To make this calculation (the
24 “Settlement Formula”), the Settlement Administrator shall (1) identify the number of Qualifying
25 Workweeks attributable to Randolph Settlement Class Members during the period of October 2,
26 2017 to July 11, 2019 (“Total Qualifying Randolph Settlement Workweeks”); (2) calculate the
27 total remaining aggregate Qualifying Workweeks attributable to all Participating Class Members
28 (“Total Qualifying Workweeks”). The value of an individual Qualifying Randolph Settlement

1 Workweek shall then be determined by dividing the proceeds of the Net Settlement Amount by the
2 Total Qualifying Workweeks, and multiplied by .40, resulting in the “Qualifying Randolph
3 Settlement Workweek Value.” The value of an individual Qualifying Workweek shall then be
4 determined by dividing the proceeds of the Net Settlement Amount by the Total Qualifying
5 Workweeks, resulting in the “Qualifying Workweek Value.” Each Participating Class Member’s
6 Individual Settlement Payment shall then be determined by multiplying the individual
7 Participating Settlement Class Member’s number of Qualifying Workweeks by the Qualifying
8 Workweek Value and to the extent applicable, adding the individual Participating Settlement Class
9 Member’s number of Qualifying Randolph Settlement Workweeks by the Qualifying Randolph
10 Settlement Workweek Value.

11 b. Twenty-five percent of the PAGA Amount \$13,912.50 shall be allocated
12 proportionally to the PAGA Representative Action Members (i.e. those Settlement Class Members
13 who were employed during the PAGA Period) on a per capita basis. Each PAGA Representative
14 Action Member will receive a proportionate share of the PAGA Amount that is equal to: (i) the
15 number of pay periods he or she worked for Defendant in California, divided by (ii) the total
16 number of pay periods worked by all PAGA Representative Action Members, which is then
17 multiplied by the PAGA Amount. One day worked in a given pay period will be credited as a pay
18 period for purposes of this calculation. Therefore, the value of each PAGA Representative Action
19 Member’s share of the PAGA Amount ties directly to the number of pay periods that he or she
20 worked during the PAGA Period.

21 c. The Notice of Settlement shall state the recipient’s estimated Individual
22 Class Settlement Share and Individual PAGA Settlement Payment.

23 14. Tax Allocation of Individual Settlement Shares and Individual PAGA Payments.

24 a. The Individual Class Settlement Shares shall be allocated ten percent (10%)
25 as W-2 wages and ninety percent (90%) as 1099 payments for penalties and interest. The
26 Individual Class Settlement Shares will be paid to Participating Settlement Class Members subject
27 to reduction for all employees’ share of typical withholdings and taxes associated with the wage-
28 portion of the Individual Class Settlement Shares.

1 b. The Individual PAGA Payments made to PAGA Representative Action
2 Members shall be allocated 100 percent (100%) as 1099 payments for penalties.

3 15. Payment of Settlement Amounts. The Settlement Administrator shall have the
4 authority and obligation to make all payments, credits, and disbursements, calculated in
5 accordance with the methodology set out in the Settlement Agreement and orders of the Court.

6 a. The Settlement Administrator's duties include, and are not limited to,
7 reporting payments under the Settlement to all required taxing and other authorities, taking and
8 transmitting the appropriate employee's and employer's share of withholdings and taxes with
9 respect to the wage-portion of the Individual Settlement Share, and issuing IRS Forms W-2 and
10 1099. No person shall have any claim against Defendant, Defense Counsel, Plaintiff, Settlement
11 Class Members, PAGA Representative Action Members, Class Counsel, or the Settlement
12 Administrator based on distributions and payments made in accordance with the Settlement
13 Agreement.

14 b. With respect to Participating Settlement Class Members and PAGA
15 Representative Action Members whose Notice of Settlement are undeliverable, settlement checks
16 shall be sent to the last address obtained by the Settlement Administrator with respect to the
17 Participating Settlement Class Member and/or PAGA Representative Action Member.

18 16. Distribution Timing. Within forty-five (45) calendar days of the Effective Date, the
19 Settlement Administrator shall distribute the Gross Settlement Amount and associated tax
20 payments, including Individual Class Settlement Payments to Participating Settlement Class
21 Members, Individual PAGA Settlement Payments to PAGA Representative Action Members, the
22 Representative Service Award to Plaintiff, the portion of the PAGA Amount to be paid to the
23 LWDA, and Class Counsel Award to Class Counsel. The Settlement Administrator shall also
24 issue a payment to itself for the services performed in connection with the Settlement.

25 17. Non-Negotiated Settlement Checks. Any checks issued by the Settlement
26 Administrator to Participating Settlement Class Members and PAGA Representative Action
27 Members shall be negotiable for one hundred and eighty (180) calendar days. Those funds
28 represented by settlement checks returned as undeliverable and the funds which correspond with

1 the settlement checks that are not negotiated within one hundred and eighty (180) calendar days
2 after issuance shall be tendered, with interest, if any, to Legal Aid at Work. Neither counsel or any
3 party has any interest or involvement in the governance or work of Legal Aid at Work.

4 18. Settlement Administrator's Final Report(s). Not less than ten (10) calendar days
5 after the Response Deadline, the Settlement Administrator shall provide Class Counsel and
6 Defense Counsel a report showing: (i) the number of Notices of Settlement mailed; (ii) the number
7 of returned and undelivered Notices of Settlement; (iii) the number of re-mailed Notices of
8 Settlement; (iv) the number of total undeliverable Notices of Settlement after re-mailing; (iv) the
9 number of address traces performed for undeliverable Notices of Settlement after re-mailing; (v)
10 the number of Notices of Settlement undeliverable from traced addresses; (vi) the final number of
11 Settlement Class Members who have submitted objections; and (vii) the final number of
12 Settlement Class Members who have submitted valid letters requesting exclusion from the
13 Settlement. Upon completion of administration of the Settlement, the Settlement Administrator
14 shall provide written certification/declaration of such completion to counsel for all Parties and the
15 Court, if requested by the Parties.

16 19. Release of Claims By Participating Settlement Class Members. Upon the date the
17 Settlement Administrator distributes the Individual Class Settlement Payments to Participating
18 Settlement Class Members, and except as to such rights or claims as may be created by the
19 Settlement Agreement, each and every Participating Settlement Class Member, on behalf of
20 themselves and their heirs and assigns, shall release the Released Parties from the Released Class
21 Claims. For the avoidance of any confusion, Participating Class Members who cannot be found
22 and whose Settlement Payments are returned will be deemed to have released the Released Class
23 Claims on the date that the Settlement Administrator first attempts to distribute the Individual
24 Class Settlement Payment to the Participating Class Member.

25 20. Release of Claims By PAGA Representative Action Members. Upon the date the
26 Settlement Administrator distributes the Individual PAGA Settlement Payments to PAGA
27 Representative Action Members, and except as to such rights or claims as may be created by the
28 Settlement Agreement, each and every PAGA Representative Action Member, on behalf of

1 themselves and their heirs and assigns, shall release the Released Parties from the PAGA Released
2 Claims. For the avoidance of any confusion, PAGA Representative Action Members who cannot
3 be found and whose Settlement Payments are returned will be deemed to have released the
4 Released PAGA Claims on the date that the Settlement Administrator first attempts to distribute
5 the Individual Class Settlement Payment to the PAGA Representative Action Member.

6 21. General Release by Plaintiff Only. Upon the date the Settlement Administrator
7 distributes the Representative Service Award, Plaintiff, on behalf of himself and his heirs and
8 assigns, shall release the Released Class Claims and PAGA Released Claims against the Released
9 Parties, and Plaintiff, on behalf of himself and his heirs and assigns, makes the additional
10 following General Release in favor of the Released Parties:

11 a. Plaintiff individually hereby unconditionally waives and forever releases any
12 and all demands, damages, debts, liabilities, actions, causes of action and claims of every kind and
13 nature whatsoever, whether now known or unknown, suspected or unsuspected, contingent or non-
14 contingent, whether or not concealed or hidden, arising or accruing at any time prior to the
15 Effective Date, which now exist, or heretofore have existed, upon any theory of law or equity,
16 including, without limitation, all claims under the Fair Employment and Housing Act, the
17 California Labor Code, Americans with Disabilities Act, and Title VII of the Civil Rights Act of
18 1964. Plaintiff is deemed by operation of the order granting Final Approval to have agreed not to
19 sue or otherwise make a claim against any of the Released Parties for any claim.

20 b. Plaintiff acknowledges that he has had the opportunity to review, and has
21 reviewed, California Civil Code section 1542, which provides:

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

28 Being fully informed of this provision of the Civil Code and understanding its provisions, Plaintiff
agrees to waive any rights under that section, and acknowledges that the Settlement Agreement
and the release contained herein extends to all claims that he has or might have against the

1 Released Parties, including those which are presently unknown to him.

2 22. Release of Age Discrimination in Employment Act Claim. Plaintiff understands and
3 acknowledges that:

4 a. He is voluntarily waiving any and all rights and claims he has against the
5 Released Parties as of the date he signs this Agreement arising pursuant to the Age Discrimination in
6 Employment Act, 29 U.S.C. §§ 623, *et seq.* (“ADEA”);

7 b. He is waiving these substantive rights or claims pursuant to this Agreement in
8 exchange for consideration, the value of which exceeds the payment or remuneration to which he
9 was already entitled;

10 c. He is hereby advised in writing to consult with an attorney of his choosing
11 concerning this Agreement prior to executing it. He further acknowledges that he sought such
12 advice, that his counsel advised him to sign this Agreement, and that his execution of this Agreement
13 is voluntary and without coercion;

14 d. He has been given at least twenty-one (21) calendar days to consider the terms
15 of this Agreement, and in the event he should decide to sign this Agreement in fewer than twenty-
16 one (21) calendar days, he has done so with the express understanding that he has been given and
17 declined the opportunity to consider this Agreement for a full twenty-one (21) calendar days;

18 e. He may revoke his waiver of claims arising pursuant to the ADEA at any time
19 during the seven (7) calendar days following the date he signs this Agreement, and that, if he
20 revokes his waiver of claims arising pursuant to the ADEA during the seven (7) calendar days
21 following the date he signs this Agreement, he will receive twenty-five percent (25%) of the Court-
22 approved Class Representative Service Award and that such amount will be the consideration for a
23 release of all his rights and claims addressed in this Agreement except any claims he may have
24 pursuant to the ADEA. Plaintiff further understands and agrees that if he does not revoke his waiver
25 of claims arising pursuant to the ADEA during the seven (7) calendar days following the date he
26 signs this Agreement, he will receive one hundred percent (100%) of the Class Representative
27 Service Award, and that such amount will be consideration for the release of all his rights and claims
28 addressed in this Agreement, including any claims he may have pursuant to the ADEA;

f. Any revocation must be in writing and delivered by hand or certified mail to Jason Campbell, Winston & Strawn LLP, 333 S. Grand Ave., Suite 3800, Los Angeles, CA 90071.

23. Final Approval Hearing and Entry of Judgment. Upon expiration of the deadlines to postmark a letter requesting exclusion from the Settlement, or objections to the Settlement Agreement, and with the Court's permission, a Final Approval hearing shall be conducted to finally determine the fairness of the Settlement, along with the amounts properly payable for (a) Individual Class Settlement Payments, (b) the Class Counsel Award, (c) the Representative Service Award Payment, (c) Individual PAGA Settlement Payments, (d) payment to the LWDA, and (e) all Settlement Administration Costs. Class Counsel will be responsible for drafting the attorneys' fees and costs application to be heard at the Final Approval hearing.

24. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the Court or after the Final Approval hearing, the Parties shall present a proposed judgment to the Court for its approval. After entry of the judgment, the Court shall have continuing jurisdiction under Code of Civil Procedure section 664.6 solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Agreement. The Parties further understand and agree that if an action is brought to enforce any of the terms of this Settlement Agreement, the prevailing party shall be entitled to its/his reasonable attorneys' fees and costs.

25. No Solicitation of Settlement Objections or Exclusions. The Parties agree to use their best efforts to carry out the terms of the Settlement Agreement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to submit either a letter requesting exclusion from the Settlement or written objections to the Settlement Agreement or to appeal from the Court's final judgment.

26. Nullification of Settlement Agreement. The Settlement Agreement shall be null and void and any order or judgment entered by the Court in furtherance of the Settlement shall be treated as void from the beginning if: (i) the Defendant exercises its option to rescind the Settlement Agreement under the terms and conditions as set forth in Paragraph III.8.(e); (ii) the

1 Court does not finally approve the Settlement as provided herein; (iii) the Court does not enter a
2 final judgment as provided herein; or (iv) the Settlement does not become final for any other
3 reason. In such a case, the Parties shall be returned to their respective statuses as of the date and
4 time immediately prior to the execution of the Settlement Agreement and the Parties shall proceed
5 in all respects as if the Settlement Agreement had not been executed. In the event an appeal is filed
6 from the Court's final judgment, or any other appellate review is sought prior to the Effective
7 Date, administration of the Settlement shall be stayed pending final resolution of the appeal or
8 other appellate review (unless otherwise agreed to by the Parties).

9 **IV. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL AND**
10 **BETWEEN PRELIMINARY AND FINAL APPROVAL**

11 27. Promptly after execution of the Settlement Agreement, Plaintiff shall move the
12 Court for Preliminary Approval of the Settlement and obtain entry of an order accomplishing the
13 following:

- 14 a. Preliminarily approving the Settlement;
- 15 b. Approving as to form and content the proposed Notice of Settlement;
- 16 c. Directing the mailing of the Notice of Settlement;
- 17 d. Preliminarily appointing Plaintiff and Class Counsel as representatives of
18 the Settlement Class Members and PAGA Representative Action Members;
- 19 e. Preliminarily approving the application for the Class Counsel Award;
- 20 f. Preliminarily setting the Representative Service Award;
- 21 g. Preliminarily approving settlement administration services to be provided by
22 the Settlement Administrator and Settlement Administration Costs;
- 23 h. Preliminarily approving the PAGA Amount; and
- 24 i. Scheduling the Final Approval hearing.

25 28. The Parties shall submit the Settlement Agreement in support of Plaintiff's
26 unopposed motion for Preliminary Approval of the Settlement. Plaintiff shall provide Defendant
27 no fewer than three (3) business days to review the motion for Preliminary Approval, and shall not
28 file the motion for Preliminary Approval or any other documents until Defendant has approved

1 their contents.

2 29. Class Counsel will file a motion for Final Approval of the Settlement and
3 supporting documents with the Court at least sixteen (16) court days before the Final Approval
4 hearing or such other date as the Court directs. Supporting documents include: (a) a declaration by
5 the Settlement Administrator of due diligence and proof of mailing of the Notice of Settlement,
6 and of the delivery results of the Settlement Administrator's mailings including tracing and re-
7 mailing efforts; (b) a proposed order granting Final Approval; (c) a proposed final judgment. Class
8 Counsel will send Defense Counsel the motion for Final Approval of the Settlement for review,
9 comments, and changes no less than three (3) business days prior to filing the motion. Defendant
10 shall have three (3) business days in which to provide its comments. The Parties will meet and
11 confer and agree upon the proposed order granting Final Approval and the proposed final
12 judgment. Defendant will not oppose Final Approval of the Settlement.

13 30. Class Counsel will submit a proposed order and judgment for Final Approval. The
14 proposed order and judgment shall include the following findings and orders:

- 15 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable
16 and adequate, and directing that its terms and provisions be carried out;
- 17 b. Approving the payment of the Representative Service Award to Plaintiff;
- 18 c. Approving Class Counsel's application for the Class Counsel Award;
- 19 d. Approving the PAGA Amount; and
- 20 e. Providing that the Court will retain jurisdiction to oversee administration and
21 enforcement of the terms of the Settlement and the Court's orders.

22 **V. DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL**

23 31. Following entry of the Court's Final Approval order and judgment, the Parties will
24 each act to assure its timely execution and the fulfillment of all its provisions, including but not
25 limited to the following:

- 26 a. Should an appeal be taken from the Final Approval of the Settlement, all
27 Parties will support the Final Approval order on appeal;
- 28 b. Class Counsel and Defense Counsel will reasonably assist the Settlement

1 Administrator as needed or requested in the process of identifying and locating Settlement Class
2 Members and/or PAGA Representative Action Members; and

3 c. Class Counsel will ensure that the Settlement Administrator will certify to the
4 Court completion of all payments required to be made by the Settlement Agreement.

5 **VI. OTHER PROVISIONS.**

6 32. No Admission. Nothing contained herein, nor the consummation of the Settlement
7 Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or
8 wrongdoing on the part of Defendant or any of the other Released Parties. The Parties have entered
9 into the Settlement Agreement with the intention of avoiding further disputes and litigation with
10 their attendant inconvenience and expenses. The Settlement Agreement is a settlement document
11 and, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408
12 and/or any other similar law, shall be inadmissible in evidence in any proceeding, except an action
13 or proceeding to approve the Settlement, and/or interpret or enforce the Settlement.

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

<u>To Plaintiff's Counsel:</u>	<u>To Defendant's Counsel:</u>
CROSNER LEGAL, PC Zachary Crosner Blake Jones Chad Saunders 9440 Santa Monica Blvd., Suite 301 Beverly Hills, California 90210	WINSTON & STRAWN LLP Jason Campbell Rachel A. D. Busch Zarouhi Papazyan 333 S. Grand Ave., 38th Floor Los Angeles, California 90071

23 34. Tax Liability. The Parties make no representations as to the tax treatment or legal
24 effect of the payments called for hereunder, and Settlement Class Members are not relying on any
25 statement or representation by the Parties in this regard. Settlement Class Members and PAGA
26 Representative Action Members understand and agree that each will be solely responsible for the
27 payment of any taxes and penalties assessed on the payments which are issued to them, as
28

1 described herein, and will defend, indemnify, and hold the Parties free and harmless from and
2 against any claims resulting therefrom.

3 35. Exhibits and Headings. The terms of this Agreement include the terms set forth in
4 any attached exhibits, which are incorporated by this reference as though fully set forth herein.
5 Any exhibits are an integral part of the Settlement. The descriptive headings of any paragraphs or
6 sections of the Settlement Agreement are inserted for convenience of reference only and do not
7 constitute a part of the Settlement Agreement.

8 36. Amendment or Modification. Unless otherwise provided herein, the Settlement
9 Agreement may be amended or modified only by a written instrument signed by counsel for all
10 Parties or their successors-in-interest.

11 37. Entire Agreement. The Settlement Agreement, any supplemental written agreement
12 subsequently incorporated, and any attached Exhibits constitute the entire Settlement Agreement
13 among these Parties, and no oral or written representations, warranties or inducements have been
14 made to any Party concerning the Settlement Agreement or its Exhibits other than the
15 representations, warranties and covenants contained and memorialized in such documents.

16 38. Authorization to Enter Into Settlement Agreement. The signatories hereto represent
17 that they are fully authorized to enter into the Settlement Agreement and bind the Parties hereto to
18 the terms and conditions hereof.

19 39. Mutual Full Cooperation. The Parties and their counsel will cooperate with each
20 other and use their best efforts to affect the implementation of the Settlement. Any disputes arising
21 out of or relating to this Settlement Agreement will be submitted to mediator Michael A. Latin for
22 resolution. The Parties will split the costs of the mediator for any such time incurred by the
23 mediator in reaching such resolution, and all Parties will bear their own attorneys' fees and other
24 costs incurred.

25 40. Binding on Successors and Assigns. The Settlement Agreement shall be binding
26 upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
27 administrators and successors. The Parties hereto represent, covenant, and warrant that they have
28 not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or

1 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
2 action or rights herein released and discharged except as set forth herein.

3 41. Participating Settlement Class Member and PAGA Representative Action Member
4 Signatories. It is agreed that because the Participating Settlement Class Members and PAGA
5 Representative Action Members are numerous, it is impossible or impractical to have each
6 Participating Settlement Class Member and PAGA Representative Action Member execute the
7 Settlement Agreement. The Notice of Settlement will advise all Settlement Class Members and
8 PAGA Representative Action Members of the binding nature of the release and, upon Final
9 Approval, such shall have the same force and effect as if the Settlement Agreement were executed
10 by each Participating Settlement Class Member and PAGA Representative Action Member.

11 42. California Law Governs. All terms of the Settlement Agreement and the exhibits
12 hereto shall be governed by and interpreted according to the laws of the State of California.

13 43. Counterparts. The Settlement Agreement may be executed in one or more
14 counterparts. All executed counterparts and each of them, including electronic, pdf, DocuSign, and
15 scanned copies of the signature page, shall be deemed to be one and the same instrument provided
16 that counsel for the Parties to the Settlement Agreement shall exchange among themselves original
17 signed counterparts.

18 44. Plaintiff's Waiver of Right to be Excluded. Plaintiff agrees that by signing the
19 Settlement Agreement, he is bound by the terms herein stated and further agrees not to request to
20 be excluded from the Settlement Class.

21 45. Confidentiality Preceding Preliminary Approval. Plaintiff and Class Counsel agree
22 that the terms of the Settlement (including, but not limited to, the Gross Settlement Amount), the
23 negotiations leading to the Settlement, and all documents related to the Settlement shall not be
24 discussed with, publicized or promoted to the public, except as necessary to seek approval of the
25 Settlement Agreement, effectuate and/or enforce the terms of the Settlement Agreement.
26 Notwithstanding the foregoing, Plaintiff and Class Counsel may tell the public in general only that
27 certain claims "have been resolved by the Parties." Plaintiff and Class Counsel will not publish or
28 publicize the Settlement Amount and will not issue any press releases except that Plaintiff and

1 Class Counsel may disclose in legal proceedings a summary of the terms of the Settlement. For
2 the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions,
3 Class Counsel is allowed to disclose the name of the Parties in the action and the venue/case
4 number of this action (but not any other details regarding the Settlement) for such limited
5 purposes.

6 Dated: August 11, 2022

CROSNER LEGAL, PC

8 

9 By: Zachary Crosner
10 Blake Jones
11 Chad Saunders
Attorneys for Plaintiff

12 Dated: August 10, 2022

WINSTON & STRAWN LLP

13 

14 By: Jason S. Campbell
15 Attorneys for Defendant