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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

PENNIES M. SHIVAIE, an individual;
LALA BASSAM, an individual on behalf of
themselves and all others similarly situated,
and aggrieved

Plaintiffs,

v.

ELWYN, a Pennsylvania corporation;
ELWYN CALIFORNIA, a California
corporation; THE ELWYN FOUNDATION,
a Pennsylvania corporation; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 21CV382581

[Assigned for all purposes to the Hon.
Charles F. Adams, in Dept. 7]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

ACTION FILED: May 28, 2021

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Pennies M. Shivaie (“Plaintiff Shivaie”) and Lala Bassam (“Plaintiff Bassam,” and with Plaintiff Shivaie, the “Plaintiffs”) and defendant Elwyn California, (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendant, captioned *PENNIES M. SHIVAIE v. ELWYN., et al.*, Case No. 21CV382581, initiated on May 28, 2021, and pending in Superior Court of the State of California, County of Santa Clara.

1.2. “Administrator” means ILYM Group, Inc. (“ILYM”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

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

1.4. “Aggrieved Employee” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, in California, as a non-exempt, hourly-paid employee who worked for Defendant during the PAGA Period.

1.5. “Class” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, in California, as a non-exempt, hourly-paid employee who worked for Defendant during the Class Period.

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

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

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1.8. "Class Data" means Class Member identifying information in Defendant's custody, possession, or control, including the Class Member's (1) name; (2) last known address(es); (3) last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

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

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

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

1.12. "Class Period" means the period from January 1, 2020, through March 1, 2025.

1.13. "Class Representative(s)" means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Santa Clara.

1.16. "Defendant" means named defendant Elwyn California.

1.17. "Defense Counsel" means Dean A. Rocco and Trevor Wong of Wilson Elser Moskowitz Edelman & Dicker LLP.

1.18. "Effective Date" means the later of: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members

objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Final Judgment" means the Judgment entered by the Court based upon the Final Approval.

1.22. "Gross Settlement Amount" means \$3,200,000.00 (Three Million Two Hundred Thousand Dollars and Zero Cents), which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator's Expenses.

1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

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

1.27. "LWDA PAGA Payment" means 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA

PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. The remainder will be paid to Participating Class Members as Individual Class Payments.

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

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

1.31. “PAGA Period” means the period from January 1, 2020, through the end of the Class Period.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.33. “PAGA Notices” means Plaintiff Shivaie’s May 28, 2021, letter and Plaintiff Bassam’s January 24, 2023 letter to Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$150,000.00), allocated 25% to the Aggrieved Employees (\$37,500.00) and the 75% to the LWDA (\$112,500.00) in settlement of PAGA claims.

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

1.36. “Plaintiffs” means PENNIES M. SHIVAIE and LALA BASSAM, the named plaintiffs in the Action.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval and Approval of PAGA Settlement.

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

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

1.41. “Released Parties” means: Defendant, and each of their former, present and future owners, parents, affiliates, and subsidiaries (including Elwyn and The Elwyn Foundation), and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

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

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

1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.45. “Workweek” means any week during which a Class Member worked for Defendant, for at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

2. RECITALS

2.1. On May 28, 2021, Plaintiff Shivaie commenced this Action by filing a wage and hour class action complaint against Defendant for: failure to pay overtime and minimum wages; failure to provide meal breaks and rest breaks; waiting time penalties; wage statement violations; failure to timely pay wages; failure to indemnify; unfair competition (“Action”).

2.2. On May 28, 2021, Plaintiff Shivaie filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3, stating that Plaintiff Shivaie intended to serve as a proxy

1 of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged Labor
2 Code violations.

3 2.3. On November 22, 2021, Plaintiff Shivaie filed a First Amended Complaint in the Action,
4 adding a cause of action for civil penalties under PAGA.

5 2.4. On January 24, 2023, Plaintiff Bassam filed with the LWDA and served on Defendant
6 a notice under Labor Code section 2699.3, stating that Plaintiff Bassam intended to serve as a
7 proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged
8 Labor Code violations.

9 2.5. On April 4, 2023, Plaintiff Shivaie filed a Second Amended Complaint in the Action,
10 adding Plaintiff Bassam as a named plaintiff in the Action. The Second Amended Complaint is
11 the operative complaint in the Action (the “Operative Complaint”).

12 2.6. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

13 2.7. Prior to mediation, Plaintiffs obtained, through informal discovery: (a) time and payroll
14 records for 15% of Class Members through mediation; (b) a class list with hire dates, termination
15 dates, and rates of pay for all Class Members; (c) wage and hour policy documents; (d) and all
16 documents pertaining to Plaintiffs available to Defendant.

17 2.8. On November 16, 2024, the Parties participated in an all-day mediation presided over by
18 Lynn Frank. The mediation was successful, and the Parties agreed to globally resolve all class
19 and PAGA claims in the Action.

20 2.9. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in
21 *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker*
22 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

23 2.10. The Court has not granted class certification.

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

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1 **3. MONETARY TERMS**

2 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below,
3 Defendant promises to pay \$3,200,000.00 as the Gross Settlement Amount, unless increased
4 pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll
5 taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation
6 to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in
7 Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement
8 Amount without asking or requiring Participating Class Members or Aggrieved Employees to
9 submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to
10 Defendant.

11 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
12 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
13 in the Final Approval:

14 3.2.1. To Plaintiffs: Class Representative Service Payment to Plaintiffs of no more than
15 \$10,000.00 each, for a total of \$20,000.00, in addition to any Individual Class Payment
16 and any Individual PAGA Payment Plaintiffs are entitled to receive as Participating
17 Class Members. Defendant will not oppose Plaintiffs' request for Class Representative
18 Service Payments that do not exceed this amount. As part of the motion for Class
19 Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek
20 Court approval for any Class Representative Service Payments prior to the Final
21 Approval Hearing. If the Court approves a Class Representative Service Payment less
22 than the amount requested, the Administrator will retain the remainder in the Net
23 Settlement Amount. The Administrator will pay the Class Representative Service
24 Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for
25 employee taxes owed on their respective Class Representative Service Payments.

26 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the
27 Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this
28 Agreement, is currently estimated to be \$1,120,000.00 and a Class Counsel Litigation

1 Expenses Payment of not more than \$85,000.00. Defendant will not oppose requests for
2 these payments provided they do not exceed these amounts. Plaintiffs and/or Class
3 Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class
4 Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves
5 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less
6 than the amounts requested, the Administrator will allocate the remainder to the Net
7 Settlement Amount. Released Parties shall have no liability to Class Counsel or any
8 other Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee
9 Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will
10 pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one
11 or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for
12 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation
13 Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any
14 dispute or controversy regarding any division or sharing of any of these Payments. There
15 will be no additional charge of any kind to either the Settlement Class Members or
16 request for additional consideration from Defendant for such work unless, Defendant
17 materially breaches this Agreement, including any term regarding funding, and further
18 efforts are necessary from Class Counsel to remedy said breach, including, without
19 limitation, moving the Court to enforce the Agreement. Should the Court approve
20 attorneys' fees and/or litigation costs and expenses in amounts that are less than the
21 amounts provided for herein, then the unapproved portion(s) shall be a part of the Net
22 Settlement Amount.

23 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
24 \$15,350.00 except for a showing of good cause and as approved by the Court. To the
25 extent the Administration Expenses are less, or the Court approves payment less than
26 \$15,350.00, the Administrator will retain the remainder in the Net Settlement Amount.

27 3.2.4. To Each Participating Class Member: An Individual Class Payment is calculated
28 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked

by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

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

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$150,000.00 to be paid from the Gross Settlement Amount, with 75% (\$112,500.00) allocated to the LWDA PAGA Payment and 25% (\$37,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$37,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the

amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 1,949 Class Members who collectively worked a total of 230,000 Workweeks.

4.2. Class Data. Not later than March 21, 2025, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 60 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments, and the Individual PAGA

1 Payments.

2 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
3 Individual PAGA Payments and send them to the Class Members via First Class U.S.
4 Mail, postage prepaid. The face of each check shall prominently state the date (not less
5 than 180 days after the date of mailing) when the check will be voided. The
6 Administrator will cancel all checks not cashed by the void date. The Administrator
7 will send checks for Individual Settlement Payments to all Participating Class Members
8 (including those for whom Class Notice was returned undelivered). The Administrator
9 will send checks for Individual PAGA Payments to all Aggrieved Employees, including
10 Non-Participating Class Members who qualify as Aggrieved Employees (including
11 those for whom Class Notice was returned undelivered). The Administrator may send
12 Participating Class Members a single check combining the Individual Class Payment
13 and the Individual PAGA Payment. Before mailing any checks, the Settlement
14 Administrator must update the recipients' mailing addresses using the National Change
15 of Address Database.

16 4.4.2. The Administrator must conduct a Class Member Address Search for all other
17 Class Members whose checks are returned undelivered without USPS forwarding
18 address. Within 7 days of receiving a returned check, the Administrator must re-mail
19 checks to the USPS forwarding address provided or to an address ascertained through
20 the Class Member Address Search. The Administrator need not take further steps to
21 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
22 The Administrator shall promptly send a replacement check to any Class Member whose
23 original check was lost or misplaced, as requested by the Class Member prior to the void
24 date.

25 4.4.3. For any Class Member whose Individual Class Payment check or Individual
26 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
27 shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid
28 at Work, for use in Santa Clara County.

1 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
2 not obligate Defendant to confer any additional benefits or make any additional
3 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
4 specified in this Agreement.

5 **5. RELEASE OF CLAIMS**

6 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
7 and on the date when Defendant fully funds the entire Gross Settlement Amount and funds all
8 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs,
9 Class Members, and Class Counsel will release claims against all Released Parties as follows:

10 5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses,
11 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
12 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
13 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
14 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
15 have been, alleged based on facts contained in the Operative Complaint and Plaintiffs' PAGA
16 Notices ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to
17 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
18 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
19 on occurrences outside the Class Period. Plaintiffs acknowledge that they may discover facts or
20 law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be
21 true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects,
22 notwithstanding such different or additional facts or Plaintiffs' discovery of them.

23 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For
24 purposes of Plaintiffs' Release only, Plaintiffs expressly waive and relinquish the
25 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
26 which reads:

27 A general release does not extend to claims that the creditor or releasing party does not
28 know or suspect to exist in his or her favor at the time of executing the release, and that

1 if known by him or her would have materially affected his or her settlement with the
2 debtor or Released Party.

3 5.2. Release of Class Claims: For the duration of the Class Period, all Participating Class
4 Members, on behalf of themselves and their respective former and present representatives,
5 agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all
6 claims that were alleged, or reasonably could have been alleged, based on the facts stated in the
7 Operative Complaint including: (1) failure to pay overtime; (2) failure to pay minimum wages;
8 (3) failure to provide meal breaks, (4) rest breaks; (5) waiting time penalties; (6) wage statement
9 violations; (7) failure to timely pay wages; (8) failure to indemnify; and (9) unfair competition.

10 5.3. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not
11 release any other claims, including claims for vested benefits, wrongful termination, violation of
12 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
13 workers' compensation, or claims based on facts occurring outside the Class Period.

14 5.4. Release by of PAGA Claims: For the duration of the PAGA Period, the LWDA and the
15 State of California, by and through Plaintiffs as agents and proxies of the LWDA, and to the
16 extent permitted by law, the Aggrieved Employees, release the Released Parties from all claims
17 for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts
18 stated in the Operative Complaint and the PAGA Notices.

19 **6. MOTION FOR PRELIMINARY APPROVAL**

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

23 6.1. Defendant's Declaration in Support of Preliminary Approval. Within 7 days of full
24 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
25 declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or
26 potential conflicts of interest with the Administrator and Cy Pres Recipient.

27 6.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and endeavor to deliver to Defense
28 Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the

1 notice, and memorandum in support of the Motion for Preliminary Approval that includes an
2 analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement
3 under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary
4 Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed
5 declaration from the Administrator attaching its “not to exceed” bid for administering the
6 Settlement and attesting to its willingness to serve; competency; operative procedures for
7 protecting the security of Class Data; amounts of insurance coverage for any data breach,
8 defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of
9 interest with Class Members; and the nature and extent of any financial relationship with
10 Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming
11 willingness and competency to serve and disclosing all facts relevant to any actual or potential
12 conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm
13 attesting to its competency to represent the Class Members; its timely transmission to the LWDA
14 of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd.
15 (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code
16 section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest
17 with Class Members and the Administrator.

18 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
19 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
20 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
21 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
22 Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the
23 Administrator.

24 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
25 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
26 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
27 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
28 Approval or conditions Preliminary Approval on any material change to this Agreement, Class

Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION

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

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

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

7.4. Notice to Class Members

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

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after the Court's entry of the Preliminary Approval Order, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks

and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

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

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days

for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

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

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after

1 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
2 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
3 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge
4 the allocation by communicating with the Administrator via mail. The Administrator must
5 encourage the challenging Class Member to submit supporting documentation. In the absence
6 of any contrary documentation, the Administrator is entitled to presume that the Workweeks
7 contained in the Class Notice are correct so long as they are consistent with the Class Data. The
8 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
9 Periods shall be final and not appealable or otherwise susceptible to challenge. The
10 Administrator shall promptly provide copies of all challenges to the calculation of Workweeks
11 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
12 of the challenges.

13 7.7. Objections to Settlement

14 7.7.1. Only Participating Class Members may object to the class action components of
15 the Settlement and/or this Agreement, including contesting the fairness of the
16 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
17 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

18 7.7.2. Participating Class Members may send written objections to the Administrator by
19 mail. In the alternative, Participating Class Members may appear in Court (or hire an
20 attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
21 A Participating Class Member who elects to send a written objection to the
22 Administrator must do so not later than 45 days after the Administrator's mailing of the
23 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
24 mailed).

25 7.7.3. Non-Participating Class Members have no right to object to any of the class action
26 components of the Settlement.

27 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks
28 to be performed or observed by the Administrator contained in this Agreement or otherwise.

1 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
2 and use an internet website to post information of interest to Class Members, including
3 the date, time and location for the Final Approval Hearing and copies of the Settlement
4 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
5 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
6 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
7 the Final Approval and the Judgment. The Administrator will also maintain and monitor
8 an email address and a toll-free telephone number to receive Class Member calls and
9 emails.

10 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
11 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
12 Not later than 5 days after the expiration of the deadline for submitting Requests for
13 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
14 containing (a) the names and other identifying information of Class Members who have
15 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
16 other identifying information of Class Members who have submitted invalid Requests
17 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
18 (whether valid or invalid).

19 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
20 reports to Class Counsel and Defense Counsel that, among other things, tally the number
21 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
22 Exclusion (whether valid or invalid) received, objections received, challenges to
23 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
24 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
25 Weekly Reports must include the Administrator’s assessment of the validity of
26 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
27 received.

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1 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
2 address and make final decisions consistent with the terms of this Agreement on all
3 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
4 Administrator's decision shall be final and not appealable or otherwise susceptible to
5 challenge.

6 7.8.5. Administrator's Declaration. Before the date by which Plaintiffs are required to
7 file the Motion for Final Approval of the Settlement, the Administrator will provide to
8 Class Counsel and Defense Counsel, a declaration suitable for filing in Court attesting
9 to its due diligence and compliance with all of its obligations under this Agreement,
10 including, but not limited to, its mailing of Class Notices, the Class Notices returned as
11 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
12 number of Requests for Exclusion from Settlement it received (both valid or invalid),
13 the number of written objections and attach the Exclusion List. The Administrator will
14 supplement its declaration as needed or requested by the Parties and/or the Court. Class
15 Counsel is responsible for filing the Administrator's declaration(s) in Court.

16 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
17 disburses all funds in the Gross Settlement Amount, the Administrator will provide
18 Class Counsel and Defense Counsel with a final report detailing its disbursements by
19 employee identification number only of all payments made under this Agreement. At
20 least 7 days before any deadline set by the Court, the Administrator will prepare, and
21 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
22 Court attesting to its disbursement of all payments required under this Agreement. Class
23 Counsel is responsible for filing the Administrator's declaration in Court.

24 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

25 Based on its records, Defendant estimates that, as of the date of this Settlement
26 Agreement, (1) there are 1,949 Class Members and 230,000 Total Workweeks during the Class
27 Period.

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1 8.1. Increase in Workweeks. Defendant represents that there are no more than 230,000
2 Workweeks worked during the Class Period. In the event the number of workweeks during the
3 Class Period increases by more than 5%, or 11,500 Workweeks, then, at Defendant's election:
4 (1) the Gross Settlement Amount shall be increased proportionally by the Workweeks in excess
5 of 241,500 multiplied by the Workweek Value; or (2) the Class Period shall end on the date the
6 number of Workweeks reaches 241,500. The Workweek Value shall be calculated by dividing
7 the Gross Settlement Amount by 230,000. The Parties agree that the Workweek Value amounts
8 to, and the settlement amounts to, \$13.91 per Workweek (\$3,200,000/ 230,000 Workweeks).
9 Thus, for example, should there be 242,000 Workweeks in the Class Period, then the Gross
10 Settlement Amount shall be increased by \$6,955.00. (242,000 Workweeks – 241,500 Workweeks
11 x \$13.91/Workweek). Defendant shall make its election above no later than March 31, 2025.
12 Defendant shall also provide the Class Data attesting to the number of Workweeks to the
13 Settlement Administrator no later March 21, 2025.

14 **9. MOTION FOR FINAL APPROVAL**

15 9.1. Prior to the calendared Final Approval Hearing, Plaintiffs will file in Court a motion for
16 final approval of the Settlement that includes a request for approval of the PAGA settlement
17 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order, and a proposed
18 Judgment (collectively "Motion for Final Approval"). Plaintiffs shall endeavor to provide drafts
19 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
20 Counsel and Defense Counsel will expeditiously meet and confer in good faith to resolve any
21 disagreements concerning the Motion for Final Approval.

22 9.2. Response to Objections. Each Party retains the right to respond to any objection raised
23 by a Participating Class Member, including the right to file responsive documents in Court no
24 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
25 by the Court.

26 9.3. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
27 Approval on any material change to the Settlement (including, but not limited to, the scope of
28 release to be granted by Class Members), the Parties will expeditiously work together, in good

1 faith, to address the Court's concerns by revising the Agreement as necessary to obtain Final
2 Approval. The Court's decision to award less than the amounts requested for the Class
3 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
4 Expenses Payment, and/or Administrator Expenses Payment shall not constitute a material
5 modification to the Agreement within the meaning of this paragraph.

6 9.4. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
7 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
8 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
9 and (iii) addressing such post-Judgment matters as are permitted by law.

10 9.5. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
11 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
12 Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective
13 counsel, and all Participating Class Members who did not object to the Settlement as provided in
14 this Agreement, waive all rights to appeal from the Judgment, including all rights to post-
15 judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
16 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of
17 the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
18 Parties' obligations to perform under this Agreement will be suspended until such time as the
19 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
20 the amount of the Net Settlement Amount.

21 9.6. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
22 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
23 modification of this Agreement (including, but not limited to, the scope of release to be granted
24 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
25 expeditiously work together in good faith to address the appellate court's concerns and to obtain
26 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
27 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
28 the Court's award of the Class Representative Service Payment or any payments to Class Counsel

shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT

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

11. ADDITIONAL PROVISIONS

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

11.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court

1 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
2 government agency. Each Party agrees to immediately notify each other of any judicial or
3 agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel,
4 Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any
5 conversation or other communication, before the filing of the Motion for Preliminary Approval,
6 with any third party regarding this Agreement or the matters giving rise to this Agreement except
7 to respond only that “the matter was resolved,” or words to that effect. This paragraph does not
8 restrict Class Counsel’s communications with Class Members in accordance with Class
9 Counsel’s ethical obligations owed to Class Members.

10 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
11 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
12 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s
13 ability to communicate with Class Members in accordance with Class Counsel’s ethical
14 obligations owed to Class Members.

15 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
16 together with its attached exhibits shall constitute the entire agreement between the Parties
17 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
18 inducements made to or by any Party.

19 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
20 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate
21 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
22 its terms, and to execute any other documents reasonably required to effectuate the terms of this
23 Agreement including any amendments to this Agreement.

24 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
25 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
26 Settlement Agreement, submitting supplemental evidence and supplementing points and
27 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
28 or content of any document necessary to implement the Settlement, or on any modification of the

1 Agreement that may become necessary to implement the Settlement, the Parties will seek the
2 assistance of a mediator and/or the Court for resolution.

3 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
4 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
5 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
6 action, or right released and discharged by the Party in this Settlement.

7 11.8. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant, nor Defense Counsel are
8 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
9 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
10 Part 10, as amended) or otherwise.

11 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
12 modified, changed, or waived only by an express written instrument signed or agreed to by all
13 Parties or their representatives, and approved by the Court. Plaintiffs and Defendant expressly
14 agree that should the Parties agree to amend, modify, change, or waive this Agreement, or any
15 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any
16 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
17 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
18 the use of signatures previously provided by the Parties.

19 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
20 the benefit of, the successors of each of the Parties.

21 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
22 governed by and interpreted according to the internal laws of the state of California, without
23 regard to conflict of law principles.

24 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
25 this Agreement. This Agreement will not be construed against any Party on the basis that the
26 Party was the drafter or participated in the drafting.

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1 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
2 during Action and in this Agreement relating to the confidentiality of information shall survive
3 the execution of this Agreement

4 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
5 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant
6 in connection with the mediation, other settlement negotiations, or in connection with the
7 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
8 be used in any way that violates any existing contractual agreement, statute, or rule of court.

9 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
10 inserted for convenience of reference only and does not constitute a part of this Agreement.

11 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
12 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
13 weekend or federal legal holiday, such date or deadline shall be on the first business day
14 thereafter.

15 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
16 by facsimile, electronically (i.e., DocuSign), or email, which, for purposes of this Agreement,
17 shall be accepted as an original. All executed counterparts and each of them will be deemed to
18 be one and the same instrument if counsel for the Parties will exchange between themselves
19 signed counterparts. Any executed counterpart will be admissible in evidence to prove the
20 existence and contents of this Agreement.

21 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
22 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
23 agree that upon the signing of this Agreement, pursuant to CCP section 583.330, to extend the
24 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
25 process.

26 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
27 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
28 illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel

1 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
2 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
3 Agreement.

4
5 **IT IS SO AGREED:**

6
7 
Pennie Shivaie (Feb 17, 2025 15:43 PST)

8 _____
Plaintiff, PENNIES M. SHIVAIE

9 _____
For Defendant, ELWYN CALIFORNIA

10
11 _____
Plaintiff, LALA BASSAM

12
13 **AGREED AS TO FORM ONLY:**

14
15 _____
David D. Bibiyan
16 Vedang J. Patel
Counsel for Plaintiffs

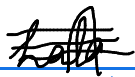
15 _____
Dean A. Rocco
16 Trevor C. Wong
Counsel for Defendants

1 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
2 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
3 Agreement.

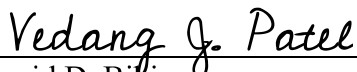
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5 **IT IS SO AGREED:**

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8 _____
Plaintiff, PENNIES M. SHIVAIE

9 _____
For Defendant, ELWYN CALIFORNIA

10 
11 [Lala Bassam \(Jan 31, 2025 10:06 PST\)](#)
12 _____
Plaintiff, LALA BASSAM

13 **AGREED AS TO FORM ONLY:**

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15 
16 _____
David D. Bibayan
Vedang J. Patel
Counsel for Plaintiffs

17 _____
Dean A. Rocco
Trevor C. Wong
Counsel for Defendants

1 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
2 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
3 Agreement.

4
5 **IT IS SO AGREED:**

6
7
8 _____
9 Plaintiff, PENNIES M. SHIVAIE

_____ 
_____ SVP and General Counsel
For Defendant, ELWYN CALIFORNIA

10
11 _____
12 Plaintiff, LALA BASSAM

13 **AGREED AS TO FORM ONLY:**

14
15 _____
16 David D. Bibiyan
17 Vedang J. Patel
18 Counsel for Plaintiffs

_____ 
_____ Dean A. Rocco
Trevor C. Wong
Counsel for Defendants