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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

NATASHA WILLIAMS, an individual and  
on behalf of all others similarly situated,

Plaintiff,

v.

MARRS SERVICES, INC., a California  
corporation; and DOES 1 through 100,  
inclusive,

Defendants.

CASE NO.: 21STCV23775

[Related Case No.: 21STCV32078]

[Assigned to the Hon. Stuart M. Rice in  
Dept. 1]

**CLASS AND PAGA SETTLEMENT  
AGREEMENT**

Action Filed: June 28, 2021

Trial Date: None Set

This Class and PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiff Natasha Williams (“Plaintiff”), on one hand, and defendant Marrs Services, Inc. (“Defendant”), on the other hand. The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS

1.1. “Action” or “Actions” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant, captioned *Natasha Williams v. Marrs Services, Inc.*, Case No. 21STCV23775, initiated on June 28, 2021, and pending in Superior Court of the State of California, County of Los Angeles, and Plaintiff’s lawsuit alleging civil penalties under the California Private Attorneys General Act of 2004, California Labor Code § 2698 et seq. (“PAGA”), captioned *Natasha Williams v. Marrs Services, Inc.*, Case No. 21STCV32078, initiated on August 30, 2021, and pending in Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means Apex Class Action Settlement Administration, 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 Employees” means Class Members working for Defendant as hourly-paid, non-exempt employees during the PAGA Period in the State of California.

1.5. “Class” or “Settlement Class” means all persons currently or formerly employed by Defendant, either directly or through any subsidiary, staffing agency, or professional employer organization, as hourly-paid, non-exempt employees in the State of California at any time during the Class Period.

1.6. “Class Counsel” means David D. Bibiyan, Jeffrey D. Klein, Joshua Shirian, 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.

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 four (4) digits of the last known Social Security Number(s); and (4) 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 June 28, 2017 through March 14, 2023.

1.13. "Class Representative" means the named Plaintiff 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 Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Los Angeles.

1.16. "Defendant" means named defendant Marrs Services, Inc.

1.17. "Defense Counsel" means Karen Luh and Martin P. Vigodnier of Jackson Lewis, P.C.

1.18. "Effective Date" means the date when all of the following events have occurred: (1) this Settlement Agreement has been executed by all Parties, Class Counsel and Defense Counsel; (2) the Court has given Preliminary Approval to this Settlement Agreement; (3) the Class Notice has

1 been given to the putative members of the Settlement Class, providing them with an opportunity  
2 to object to the terms of this Settlement Agreement or opt out of the Settlement; (4) the Court has  
3 held a Final Approval Hearing and entered a Final Approval and Final Judgment certifying the  
4 Settlement Class, and approving this Settlement Agreement; and (5) in the event there are written  
5 objections filed prior to the Final Approval Hearing which are not later withdrawn or denied, the  
6 later of the following events: five (5) business days after the period for filing any appeal, writ or  
7 other appellate proceeding opposing the Court's Final Approval approving this Settlement  
8 Agreement has elapsed without any appeal, writ or other appellate proceeding having been filed;  
9 or, if any appeal, writ or other appellate proceeding opposing the Court's Final Approval  
10 approving this Settlement Agreement has been filed, five (5) business days after any appeal, writ  
11 or other appellate proceedings opposing this Settlement Agreement has been finally and  
12 conclusively dismissed with no right to pursue further remedies or relief.

13 1.19. "Final Approval" or "Final Order" means the Court's order granting final approval of the  
14 Settlement.

15 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval  
16 of the Settlement.

17 1.21. "Final Judgment" means the Judgment entered by the Court based upon the Final  
18 Approval.

19 1.22. "General Release" means the broader release of claims by Plaintiff, which is in addition  
20 to Plaintiff's limited release of claims as a Participating Class Member.

21 1.23. "Gross Settlement Amount" means \$850,000.00 (Eight Hundred Fifty Thousand Dollars  
22 and Zero Cents), which is the total amount Defendant agrees to pay under the Settlement, except  
23 as provided in Paragraph 8.1 below, and any and all employer payroll taxes owed on the Wage  
24 Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay  
25 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class  
26 Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and  
27 Administrator's Expenses.

28 1.24. "Individual Class Payment(s)" means the Participating Class Member's pro rata share of

1 the Net Settlement Amount calculated according to the number of Workweeks worked during  
2 the Class Period.

3 1.25. “Individual PAGA Payment(s)” means the Aggrieved Employee’s pro rata share of 25%  
4 of the PAGA Penalties calculated according to the number of Workweeks worked during the  
5 PAGA Period.

6 1.26. “Judgment” means the judgment entered by the Court based upon Final Approval.

7 1.27. “LWDA” means the California Labor and Workforce Development Agency, the agency  
8 entitled, under Labor Code section 2699, subd. (i).

9 1.28. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA  
10 under Labor Code section 2699, subd. (i).

11 1.29. “Motion for Final Approval” means Plaintiff’s submission of a written motion, including  
12 any evidence as may be required for the Court to conduct an inquiry into the fairness of the  
13 Settlement as set forth in this Agreement, to conduct a Final Approval Hearing, and to enter a  
14 Final Order in this Action.

15 1.30. “Motion for Preliminary Approval” means Plaintiff’s submission of a written motion,  
16 including any evidence as may be required for the Court to grant preliminary approval of the  
17 Settlement as required by Rule 3.769 of the California Rules of Court.

18 1.31. “Net Settlement Amount” means the Gross Settlement Amount, less the following  
19 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA  
20 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel  
21 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be  
22 paid to Participating Class Members as Individual Class Payments.

23 1.32. “Non-Participating Class Member(s)” means any Class Member who opts out of the  
24 Settlement by sending the Administrator a valid and timely Request for Exclusion. Non-  
25 Participating Class Member(s) who worked during the PAGA Period shall still receive their pro  
26 rata share of the PAGA Penalties and will be bound by the release of the Released PAGA Claims.

27 1.33. “PAGA Pay Period(s)” means any Pay Period during which an Aggrieved Employee  
28 worked for Defendant for at least one day during the PAGA Period.

1 1.34. "PAGA Period" means the period from June 25, 2020 through end of the Class Period.

2 1.35. "PAGA" means the Private Attorneys' General Act (Labor Code §§ 2698. *et seq.*).

3 1.36. "PAGA Notice" means Plaintiff's June 25, 2021 letter to Defendant and the LWDA,

4 providing notice pursuant to Labor Code section 2699.3 subd. (a).

5 1.37. "PAGA Penalties" means the total amount of PAGA civil penalties (\$40,000.00) to be

6 paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees

7 (\$10,000.00) and 75% to the LWDA (\$30,000.00) in settlement of PAGA claims. Aggrieved

8 Employees are not permitted to exclude themselves from receiving their pro rata share of the

9 PAGA Penalties.

10 1.38. "Participating Class Member(s)" means a Class Member who does not submit a valid and

11 timely Request for Exclusion from the Settlement and will therefore receive his or her share of

12 the Net Settlement Amount automatically without the need to return a claim form. Each

13 Participating Class Member will be paid his/her Individual Class Payment. Class Members may

14 not exclude themselves from receiving their pro rata share of the PAGA Penalties, if applicable.

15 1.39. "Plaintiff", "Named Plaintiff" or "Class Representative" means Natasha Williams, the

16 named plaintiff in the Actions.

17 1.40. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the

18 Settlement.

19 1.41. "Preliminary Approval Order" means the proposed Order granting Preliminary Approval

20 and Approval of PAGA Settlement to be mutually agreed upon by the Parties prior to Plaintiff's

21 presentation of the same to the Court.

22 1.42. "Qualified Settlement Account", "QSA", "Qualified Settlement Fund" or "QSF" means

23 a fund within the meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that

24 is established by the Administrator for the benefit of Participating Class Members.

25 1.43. "Released Class Claims" means the claims being released as described in Paragraph 5.2

26 below.

27 1.44. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4

28 below.

1 1.45. “Released Parties” means (a) Defendant and each and all past or present owners, partners,  
2 parent companies, subsidiaries, divisions, related or affiliated companies (regardless of whether  
3 such partners, parent companies, subsidiaries, divisions, related or affiliated companies are  
4 individuals, corporations, partnerships, limited partnerships, limited liability companies, or other  
5 forms of entity) of Defendant; (b) each and all of the predecessor or successor entities of any of  
6 those entities identified in subparagraph (a); (c) any other individuals or entities of any kind  
7 including, but not limited to, any payroll companies, which have been or could be alleged to be  
8 in any manner responsible (whether on an alter ego, joint employer, integrated enterprise, or any  
9 other theory) for any violations described in Paragraph 5.1, 5.2, 5.3, and 5.4 below and occurring  
10 as a result of employment with Defendant, including Defense Counsel of record in the Actions;  
11 and (d) all past and present directors, officers, representatives, insurers, agents, shareholders,  
12 partners, members, lawyers, successors and assigns, and employees of any of the individuals or  
13 entities identified in subparagraphs (a), (b), or (c).

14 1.46. “Request for Exclusion” means a Class Member’s submission of a written request to be  
15 excluded from the Class Settlement signed by the Class Member. Class Members who worked  
16 during the PAGA Period are not permitted to object to the Released PAGA Claims or any portion  
17 of the Settlement pertaining to the Released PAGA Claims. Class Members who worked during  
18 the PAGA Period that submit a Request for Exclusion will still be deemed Aggrieved Employees,  
19 will still receive their Individual PAGA Payments, and will be bound by the release of the  
20 Released PAGA Claims.

21 1.47. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to  
22 Class Members and Aggrieved Employees and shall be the last date on which Class Members  
23 may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail  
24 his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after  
25 having been returned undeliverable to the Administrator shall have an additional 15 days beyond  
26 the Response Deadline has expired.

27 1.48. “Settlement” means the disposition of the Action effected by this Agreement and the  
28 Judgment.

1.49. “Workweek” means any week during which a Class Member was employed by and worked for the Defendant in a non-exempt, hourly position during the Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

## 2. RECITALS

2.1. On June 25, 2021, Plaintiff filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations (“PAGA Notice”).

2.2. On June 28, 2021, Plaintiff filed a putative class action Complaint in Superior Court of the State of California, County of Los Angeles captioned *Natasha Williams v. Marrs Services, Inc.*, Case No. 21STCV23775, alleging causes of action against Defendant for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to pay all wages due upon separation; (6) failure to provide accurate wage statements; and (7) engaging in unfair competition (the “Class Action”).

2.3. On August 30, 2021, after 65 days passed without any communication from the LWDA, Plaintiff filed a separate representative action under PAGA in the Superior Court of California for the County of Los Angeles, entitled as *Natasha Williams v. Marrs Services, Inc.*, Case No. 21STCV32078, for civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699 in connection with the allegations made in the PAGA Notice (the “PAGA Action”).

2.4. The June 28, 2021 complaint is the operative complaint for the release of class claims (“Class Action Operative Complaint”) and the August 30, 2021 complaint is the operative complaint for the release of the PAGA claims (“PAGA Action Operative Complaint”).

2.5. On October 20, 2022, Judge Stuart M. Rice issued an order finding that the Actions are related within the California Rules of Court, rule 3.300(a), and assigned the Actions to Judge Rice for all purposes, with the Class Action serving as the lead case.

2.6. As part of this Agreement, the Parties agree to stipulate to consolidate the Class Action and PAGA Action. Defendant denies the allegations in both complaints, denies any failure to



1 comply with the laws identified in the complaints, and denies any and all liability for the causes  
2 of action alleged in the complaints.

3 2.7. On December 13, 2022, the parties participated in an all-day mediation presided over by  
4 Jeff Ross, Esq., a well-regarded mediator experienced in mediating complex labor and  
5 employment matters, which led to this Agreement to settle the Action.

6 2.8. Prior to mediation, Plaintiff obtained, through informal discovery: (1) time and payroll  
7 records for approximately 33% of the estimated 124 putative class members for the Class Period;  
8 (2) a list of the estimated 124 putative class members, with hire dates, termination dates and rates  
9 of pay; (3) Defendant's wage and hour policy documents, including Defendant's handbooks in  
10 effect during the Class Period; (4) contact information for 43 putative class members; and (5) all  
11 personnel records, wage statements, and time and pay records of Plaintiff in the custody,  
12 possession and control of Defendant. Plaintiff's investigation was sufficient to satisfy the criteria  
13 for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal. App. 4th 1794,  
14 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130  
15 (*Dunk/Kullar*).

16 2.9. The Court has not granted class certification.

17 2.10. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any  
18 other pending matter or action asserting claims that will be extinguished or affected by the  
19 Settlement.

20 2.11. The complaint filed in the Class Action is the "Class Action Operative Complaint" for  
21 purposes of the release of Participating Class Members as described herein. The complaint filed  
22 in the PAGA Action is the "PAGA Action Operative Complaint" for purposes of the release of  
23 Aggrieved Employees as described herein.

### 24 **3. MONETARY TERMS**

25 3.1. Gross Settlement Amount. Defendant promises to pay \$850,000.00 as the Gross  
26 Settlement Amount, unless escalated pursuant to Paragraph 8.1 of this Agreement, and to  
27 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual  
28 Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll

1 taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will  
2 disburse the entire Gross Settlement Amount without asking or requiring Participating Class  
3 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the  
4 Gross Settlement Amount will revert to Defendant.

5 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct  
6 the following payments from the Gross Settlement Amount, in the amounts specified by the Court  
7 in the Final Approval:

8 3.2.1. To Plaintiff: Class Representative Service Payment to Class Representative or  
9 named plaintiff of not more than \$7,500.00, in addition to any Individual Class Payment  
10 and any Individual PAGA Payment the Class Representative or named plaintiff is  
11 entitled to receive as a Participating Class Member. Defendant will not oppose  
12 Plaintiff's request for a Class Representative Service Payment that does not exceed this  
13 amount. As part of the motion for Class Counsel Fees Payment and Class Litigation  
14 Expenses Payment, Plaintiff will endeavor in good faith to seek Court approval for any  
15 Class Representative Service Payments no later than 16 court days prior to the Final  
16 Approval Hearing. Any amount requested by Plaintiff for the Service Award and not  
17 awarded by the Court shall become part of the Net Settlement Amount and shall be  
18 distributed to Participating Class Members as part of their Individual Settlement  
19 Payment. The Administrator will pay the Class Representative Service Payment using  
20 IRS Form 1099. Plaintiff will be solely and legally responsible to pay any and all  
21 applicable taxes on the Service Award and shall hold harmless Defendant, Class  
22 Counsel and Defense Counsel from any claim or liability for taxes, penalties, or interest  
23 arising as a result of payment of the Service Award.

24 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which,  
25 unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to  
26 be \$297,500.00 and a Class Counsel Litigation Expenses Payment of not more than  
27 \$30,000.00. Defendant will not oppose requests for these payments provided that do not  
28 exceed these amounts. Plaintiff and/or Class Counsel will endeavor in good faith to file

a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the award of attorneys' fees. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant and Defense Counsel harmless, and indemnifies Defendant and Defense Counsel, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Settlement Class Members or request for additional consideration from Defendant for such work unless, Defendant materially breaches this Agreement, including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,890.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$7,890.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated 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

1 by each Participating Class Member's Workweeks.

2 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating  
3 Class Member's Individual Class Payment will be allocated to settlement of  
4 wage claims (the "Wage Portion"). The Wage Portions are subject to tax  
5 withholding and will be reported on an IRS W-2 Form. The 80% of each  
6 Participating Class Member's Individual Class Payment will be allocated to  
7 settlement of claims for interest and penalties (the "Non-Wage Portion"). The  
8 Non-Wage Portions are not subject to wage withholdings and will be reported  
9 on IRS 1099 Forms. Participating Class Members assume full responsibility and  
10 liability for any employee taxes owed on their Individual Class Payment. All  
11 monies received by Participating Class Members under the Settlement which  
12 are attributable to wages shall constitute income to such Participating Class  
13 Members solely in the year in which such monies actually are received by the  
14 Participating Class Members. It is the intent of the Parties that Individual  
15 Settlement Payment provided for in this Agreement are the sole payments to be  
16 made by Defendant to Participating Class Members in connection with this  
17 Settlement, with the exception of the Named Plaintiff, and that the Participating  
18 Class Members are not entitled to any new or additional compensation or  
19 benefits as a result of having received the Individual Settlement Payments.  
20 Furthermore, the receipt of Individual Settlement Payments by Participating  
21 Class Members shall not, and does not, by itself establish any general, special,  
22 or joint employment relationship between and among the Participating Class  
23 Member(s) and Defendant. Forms W-2 and/or Forms 1099 will be distributed  
24 by the Settlement Administrator at times and in the manner required by the  
25 Internal Revenue Code of 1986 (the "Code") and consistent with this  
26 Agreement. If the Code, the regulations promulgated thereunder, or other  
27 applicable tax law, is changed after the date of this Agreement, the processes  
28 set forth in this Section may be modified in a manner to bring Defendant into

compliance with any such changes.

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 \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00) allocated to the LWDA PAGA Payment and 25% (\$10,000.00) 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 (\$10,000.00) 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. The Parties estimate there are 124 Class Members who collectively worked a total of 14,271 Workweeks, and 75 Aggrieved Employees who worked a total of 3,538 PAGA Pay Periods.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the

1 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the  
2 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes  
3 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator  
4 employees who need access to the Class Data to effect and perform under this Agreement.  
5 Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class  
6 Data omitted class member identifying information and to provide corrected or updated Class  
7 Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant  
8 must send the Class Data to the Administrator, the Parties and their counsel will expeditiously  
9 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or  
10 omitted Class Data.

11 4.3. Funding of Gross Settlement Amount. No later than 30 calendar days after the Effective  
12 Date, Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts  
13 necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the  
14 Administrator pursuant to Internal Revenue Code section 1.468B-1 for deposit in an interest-  
15 bearing qualified settlement account ("QSA") with an FDIC insured banking institution, for  
16 distribution in accordance with this Agreement and the Court's Orders and subject to the  
17 conditions described herein.

18 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the  
19 Gross Settlement Amount, or soon thereafter as practicable, the Administrator will distribute  
20 payments from the QSA for all Individual Class Payments, all Individual PAGA Payments, the  
21 LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees  
22 Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service  
23 Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation  
24 Expenses Payment and the Class Representative Service Payment shall not precede disbursement  
25 of Individual Class Payments and the Individual PAGA Payments.

26 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or  
27 Individual PAGA Payments and send them to the Class Members via First Class U.S.  
28 Mail, postage prepaid. The face of each check shall prominently state the date (not less

1 than 180 days after the date of mailing) when the check will be voided. The  
2 Administrator will cancel all checks not cashed by the void date. The Administrator will  
3 send checks for Individual Settlement Payments to all Participating Class Members  
4 (including those for whom Class Notice was returned undelivered). The Administrator  
5 will send checks for Individual PAGA Payments to all Aggrieved Employees including  
6 Non-Participating Class Members who qualify as Aggrieved Employees (including  
7 those for whom Class Notice was returned undelivered). The Administrator may send  
8 Participating Class Members a single check combining the Individual Class Payment  
9 and the Individual PAGA Payment. Before mailing any checks, the Settlement  
10 Administrator must update the recipients' mailing addresses using the National Change  
11 of Address Database.

12 4.4.2. The Administrator must conduct a Class Member Address Search for all other  
13 Class Members whose checks are returned undelivered without USPS forwarding  
14 address. Within 7 days of receiving a returned check the Administrator must re-mail  
15 checks to the USPS forwarding address provided or to an address ascertained through  
16 the Class Member Address Search. The Administrator need not take further steps to  
17 deliver checks to Class Members whose re-mailed checks are returned as undelivered.  
18 The Administrator shall promptly send a replacement check to any Class Member whose  
19 original check was lost or misplaced, requested by the Class Member prior to the void  
20 date. In the event a Participating Class Member fails to cash/deposit his or her Individual  
21 Settlement Payment, the Participating Class Member shall nevertheless remain bound  
22 by the Settlement.

23 4.4.3. For any Class Member whose Individual Class Payment check or Individual  
24 PAGA Payment check is uncashed and cancelled after the void date, the Administrator  
25 shall transmit the funds represented by such checks to the California Controller's Office,  
26 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid  
27 residue" subject to the requirements of California Code of Civil Procedure ("CCP")  
28 Section 384.

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       4.5.         Tax Liability and Circular 230 Disclaimer. Named Plaintiff, Defendant, Class  
6 Counsel, and Defense Counsel make no representation as to the tax treatment or legal effect of  
7 the payments called for hereunder. The Named Plaintiff and Participating Class Members are not  
8 relying on any statement, representation, or calculation by Defendant or by the Administrator in  
9 this regard. Participating Class Members understand and agree that they shall be responsible for  
10 the payment of all taxes and penalties assessed on the payments specified herein, and shall hold  
11 the Parties, Class Counsel and Defense Counsel free and harmless from and against any claims  
12 resulting from treatment of such payments as non-taxable, including the treatment of such  
13 payments as not subject to withholding or deduction for payroll and employment taxes.

14       4.5.1.     EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS  
15             SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS  
16             AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER  
17             PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
18             AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE  
19             BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER  
20             ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH  
21             COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR  
22             BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED  
23             STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS  
24             AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
25             EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND  
26             TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION  
27             WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT  
28             BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY



1 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT  
2 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY  
3 ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX  
4 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY;  
5 AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED  
6 ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH  
7 ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF  
8 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE  
9 BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
10 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION  
11 CONTEMPLATED BY THIS AGREEMENT.

## 12 **5. RELEASE OF CLAIMS**

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

17 5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses,  
18 representatives, agents, attorneys, heirs, administrators, successors and assigns generally releases  
19 and forever discharges Released Parties, to the fullest extent permitted by law, of and from any  
20 and all claims, known and unknown, asserted and not asserted, which the Named Plaintiff has or  
21 may have against the Released Parties as of the date of execution of this Agreement ("Plaintiff's  
22 Released Claims"). Plaintiff's Released Claims include, but are not limited to, all of the Released  
23 Claims, the Released PAGA Claims and any other claims arising under the California Labor  
24 Code; any claim arising out of the California common law of contract; the Fair Labor Standards  
25 Act, 29 U.S.C. § 201 *et seq.*, and federal common law; all claims for lost wages and benefits,  
26 emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under  
27 federal, state, or local laws for discrimination, harassment, and wrongful termination, including  
28 but not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the

Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or the release of claims not permitted by law. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now know or believe to be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquishes the provisions, rights and benefits, if any, of section 1542 of the California Civil Code or similar provisions of applicable law, which reads:

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

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Agreement, and that this Agreement contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this Settlement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of the Plaintiff's choosing about this Agreement and specifically about the waiver of section 1542, and that Plaintiff understands this Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enter into this Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true

1 regarding the matters released or described in this Agreement, and even so Plaintiff agrees that  
2 the releases and agreements contained in this Agreement shall remain effective in all respects  
3 notwithstanding any later discovery of any different or additional facts. Plaintiff expressly  
4 assumes any and all risk of any mistake in connection with the true facts involved in the matters,  
5 disputes, or controversies released or described in this Agreement or with regard to any facts now  
6 unknown to Plaintiff relating thereto.

7 5.2. Release by Participating Class Members: For the duration of the Class Period, all  
8 Participating Class Members, on behalf of themselves and their respective former and present  
9 representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released  
10 Parties from all claims that were alleged or reasonably could have been alleged based on the facts  
11 stated in the Class Action Operative Complaint including: (1) all claims for failure to pay  
12 overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to  
13 provide meal periods or compensation in lieu thereof; (4) all claims for failure to provide rest  
14 periods or compensation in lieu thereof; (5) all claims for failure to pay all wages due upon  
15 separation; (6) all claims for failure to provide accurate wage statements; and (7) all claims  
16 asserted through California Business & Professions Code section 17200, *et seq.*, arising out of the  
17 Labor Code violations referenced in the Class Action Operative Complaint.

18 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not  
19 release any other claims, including claims for vested benefits, wrongful termination, violation of  
20 the Fair Employment and Housing Act, unemployment insurance, disability, social security,  
21 workers' compensation, or claims based on facts occurring outside the Class Period.

22 5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, the State of  
23 California and all Aggrieved Employees are deemed to release, on behalf of themselves and their  
24 respective former and present representatives, agents, attorneys, heirs, administrators, successors,  
25 and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or  
26 reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA  
27 Operative Complaint and the PAGA Notice, including, claims for PAGA penalties pursuant to  
28 Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in connection with alleged

violations of Labor Code sections Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 226, 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 404, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.5, 1198.5, 2699, 2802, and 2810.5, among others.

## **6. MOTION FOR PRELIMINARY APPROVAL**

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1. Defendant’s Declaration in Support of Preliminary Approval. Because funds from uncashed checks will be transmitted to the California Controller’s Office, Unclaimed Property Fund, Defendant and Defense counsel have no obligation to provide declarations disclosing any facts relevant to any actual or potential conflicts with a “*cy pres* recipient.”

6.2. Plaintiff’s Responsibilities. Plaintiff will prepare and endeavor in good faith to deliver to Defense Counsel at least three (3) business days prior to filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section

1 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined  
2 version of the parties' Agreement showing all modifications made to the Model Agreement ready  
3 for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest  
4 with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel  
5 Declaration shall aver that they are not aware of any other pending matter or action asserting  
6 claims that will be extinguished or adversely affected by the Settlement.

7 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible  
8 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full  
9 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary  
10 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary  
11 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the  
12 Administrator.

13 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
14 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and  
15 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and  
16 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary  
17 Approval or conditions Preliminary Approval on any material change to this Agreement, Class  
18 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by  
19 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the  
20 Court's concerns.

## 21 **7. SETTLEMENT ADMINISTRATION**

22 7.1. Selection of Administrator. The Parties have jointly selected Apex Class Action  
23 Settlement Administration to serve as the Administrator and verified that, as a condition of  
24 appointment, Apex Class Action Settlement Administration agrees to be bound by this  
25 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for  
26 payment of Administration Expenses. The Parties and their Counsel represent that they have no  
27 interest or relationship, financial or otherwise, with the Administrator other than a professional  
28 relationship arising out of prior experiences administering settlements.

1 7.2. Employer Identification Number. The Administrator shall have and use its own Employer  
2 Identification Number for purposes of calculating payroll tax withholdings and providing reports  
3 to state and federal tax authorities.

4 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets  
5 the requirements of a Qualified Settlement Fund (“QSF”) under U.S. Treasury Regulation section  
6 468B-1.

7 7.4. Notice to Class Members

8 7.4.1. No later than three (3) business days after receipt of the Class Data, the  
9 Administrator shall notify Class Counsel that the list has been received and state the  
10 number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class  
11 Data.

12 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14  
13 days after receiving the Class Data, the Administrator will send to all Class Members  
14 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,  
15 the Class Notice, with Spanish translation, substantially in the form attached to this  
16 Agreement as Exhibit “A.” The first page of the Class Notice shall prominently estimate  
17 the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment  
18 payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if  
19 applicable) used to calculate these amounts. Before mailing Class Notices, the  
20 Administrator shall update Class Members’ addresses using the National Change of  
21 Address database.

22 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice  
23 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice  
24 using any forwarding address provided by the USPS. If the USPS does not provide a  
25 forwarding address, the Administrator shall conduct a Class Member Address Search,  
26 and re-mail the Class Notice to the most current address obtained. The Administrator  
27 has no obligation to make further attempts to locate or send Class Notice to Class  
28 Members whose Class Notice is returned by the USPS a second time.

1 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks  
2 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days  
3 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose  
4 notice is re-mailed. The Administrator will inform the Class Member of the extended  
5 deadline with the re-mailed Class Notice.

6 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise  
7 discovers any persons who believe they should have been included in the Class Data  
8 and should have received Class Notice, the Parties will expeditiously meet and confer  
9 in person or by telephone and in good faith, in an effort to agree on whether to include  
10 them as Class Members. If the Parties agree, such persons will be Class Members  
11 entitled to the same rights as other Class Members, and the Administrator will send, via  
12 email or overnight delivery, a Class Notice requiring them to exercise options under this  
13 Agreement not later than 15 days after receipt of Class Notice, or the deadline dates in  
14 the Class Notice, which ever are later.

15 7.5. Requests for Exclusion (Opt-Outs).

16 7.5.1. Class Members who wish to exclude themselves from (opt-out of) the Class  
17 Settlement must send the Administrator, by fax, email or mail, a signed written Request  
18 for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus  
19 an additional 15 days for Class Members whose Class Notice is re-mailed). A Request  
20 for Exclusion is a letter from a Class Member or his/her representative that reasonably  
21 communicates the Class Member's election to be excluded from the Settlement and  
22 includes the Class Member's name, address and email address or telephone number. To  
23 be valid, a Request for Exclusion must be timely faxed, emailed or postmarked by the  
24 Response Deadline.

25 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it  
26 fails to contain all the information specified in the Class Notice. The Administrator shall  
27 accept any Request for Exclusion as valid if the Administrator can reasonably ascertain  
28 the identity of the person as a Class Member and the Class Member's desire to be

1 excluded. The Administrator's determination shall be final and not appealable or  
2 otherwise susceptible to challenge. If the Administrator has reason to question the  
3 authenticity of a Request for Exclusion, the Administrator may demand additional proof  
4 of the Class Member's identity. The Administrator's determination of authenticity shall  
5 be final and not appealable or otherwise susceptible to challenge.

6 7.5.3. Every Class Member who does not submit a timely and valid Request for  
7 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled  
8 to all benefits and bound by all terms and conditions of the Settlement, including the  
9 Participating Class Members' Releases under Paragraphs 5.2 and 5.4 of this Agreement,  
10 regardless whether the Participating Class Member actually receives the Class Notice  
11 or objects to the Settlement.

12 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a  
13 Non-Participating Class Member and shall not receive an Individual Class Payment or  
14 have the right to object to the class action components of the Settlement. Because future  
15 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-  
16 Participating Class Members who are Aggrieved Employees are deemed to release the  
17 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual  
18 PAGA Payment.

19 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after  
20 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose  
21 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods  
22 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the  
23 allocation by communicating with the Administrator via fax, email, or mail. The Administrator  
24 must encourage the challenging Class Member to submit supporting documentation. In the  
25 absence of any contrary documentation, the Administrator is entitled to presume that the  
26 Workweeks contained in the Class Notice are correct so long as they are consistent with the Class  
27 Data. The Administrator's determination of each Class Member's allocation of Workweeks  
28 and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The



1 Administrator shall promptly provide copies of all challenges to calculation of Workweeks  
2 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination  
3 the challenges.

4 7.7. Objections to Settlement

5 7.7.1. Only Participating Class Members may object to the class action components of  
6 the Settlement and/or this Agreement, including contesting the fairness of the  
7 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class  
8 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.  
9 Class Members who worked during the PAGA Period are not permitted to object to the  
10 Released PAGA Claims or any portion of the Settlement pertaining to the Released  
11 PAGA Claims.

12 7.7.2. Participating Class Members may send written objections to the Administrator, by  
13 fax, email or mail. In the alternative, Participating Class Members may appear in Court  
14 (or hire an attorney to appear in Court) to present verbal objections at the Final Approval  
15 Hearing. A Participating Class Member who elects to send a written objection to the  
16 Administrator must do so not later than 45 days after the Administrator's mailing of the  
17 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-  
18 mailed).

19 7.7.3. Non-Participating Class Members have no right to object to any of the class action  
20 components of the Settlement.

21 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be  
22 performed or observed by the Administrator contained in this Agreement or otherwise.

23 7.8.1. Email Address and Toll-Free Number. The Administrator will maintain and  
24 monitor an email address and a toll-free telephone number to receive Class Member  
25 calls, faxes and emails.

26 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will  
27 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.  
28 Not later than 5 days after the expiration of the deadline for submitting Requests for

1 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel  
2 containing (a) the names and other identifying information of Class Members who have  
3 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and  
4 other identifying information of Class Members who have submitted invalid Requests  
5 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted  
6 (whether valid or invalid).

7 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written  
8 reports to Class Counsel and Defense Counsel that, among other things, tally the number  
9 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for  
10 Exclusion (whether valid or invalid) received, objections received, challenges to  
11 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for  
12 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The  
13 Weekly Reports must include/provide the Administrator’s assessment of the validity of  
14 Requests for Exclusion and attach copies of all Requests for Exclusion and objections  
15 received.

16 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to  
17 address and make final decisions consistent with the terms of this Agreement on all  
18 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The  
19 Administrator’s decision shall be final and not appealable or otherwise susceptible to  
20 challenge.

21 7.8.5. Administrator’s Declaration. Before the date by which Plaintiff is required to file  
22 the Motion for Final Approval of the Settlement, the Administrator will provide to Class  
23 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its  
24 due diligence and compliance with all of its obligations under this Agreement,  
25 including, but not limited to, its mailing of Class Notice, the Class Notices returned as  
26 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total  
27 number of Requests for Exclusion from Settlement it received (both valid or invalid),  
28 the number of written objections and attach the Exclusion List. The Administrator will

1 supplement its declaration as needed or requested by the Parties and/or the Court. Class  
2 Counsel is responsible for filing the Administrator's declaration(s) in Court.

3 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator  
4 disburses all funds in the Gross Settlement Amount, the Administrator will provide  
5 Class Counsel and Defense Counsel with a final report detailing its disbursements by  
6 employee identification number only of all payments made under this Agreement. At  
7 least 7 days before any deadline set by the Court, the Administrator will prepare, and  
8 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in  
9 Court attesting to its disbursement of all payments required under this Agreement. Class  
10 Counsel is responsible for filing the Administrator's declaration in Court.

## 11 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

12 The Parties estimate that, as of the date of this Settlement Agreement, (1) there are 124  
13 Class Members and 14,271 Total Workweeks during the Class Period and (2) there were 75  
14 Aggrieved Employees who worked 3,538 Pay Periods during the PAGA Period.

15 8.1. Increase in Workweeks. The Parties estimate that there are no more than 14,271  
16 Workweeks worked by Class Members during the Class Period. If, as of the close of the Class  
17 Period, the actual number of Workweeks worked during the Class Period is more than one  
18 hundred ten percent (110%) of this estimate (*i.e.*, 15,698 Workweeks worked by the Class  
19 Members during the Class Period), then the Gross Settlement Amount shall be increased by the  
20 same proportion above one hundred ten percent (110%) using the Workweek Value. The  
21 Workweek Value shall be calculated by dividing the Gross Settlement Amount by 14,271  
22 Workweeks. The Parties agree that the Workweek Value amounts to and the settlement amounts  
23 to \$59.56 per Workweek (\$850,000 / 14,271 Workweeks). Thus, for example, should there be  
24 17,125 Workweeks (*i.e.* 120% of 14,271 Workweeks) worked by Class Members in the Class  
25 Period, then the Gross Settlement Amount to be paid will be increased by \$84,998.08 ((14,271  
26 Workweeks x .1) x \$59.56.

## 27 **9. DEFENDANT'S RIGHT TO WITHDRAW**

28 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds

1 10% of the total Class Members, Defendant retains the right, in the exercise of its sole discretion,  
2 to nullify the Settlement. The Parties agree that, if Defendant withdraw, the Settlement shall be  
3 void ab initio, have no force or effect whatsoever, and that neither Party will have any further  
4 obligation to perform under this Agreement; provided, however, Defendant will remain  
5 responsible for paying all Settlement Administration Expenses incurred to that point. Defendant  
6 must notify Class Counsel and the Court of its election to withdraw not later 30 days after  
7 expiration of the opt-out period; late elections will have no effect.

#### 8 **10. MOTION FOR FINAL APPROVAL**

9 Not later than 16 court days prior to the calendared Final Approval Hearing, Plaintiff will  
10 file in Court, a motion for final approval of the Settlement that includes a request for approval of  
11 the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order  
12 and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall endeavor in  
13 good faith to provide drafts of these documents to Defense Counsel for review at least three (3)  
14 business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel  
15 will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any  
16 disagreements concerning the Motion for Final Approval.

17 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by  
18 a Participating Class Member, including the right to file responsive documents in Court no later  
19 than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted  
20 by the Court.

21 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final  
22 Approval on any material change to the Settlement (including, but not limited to, the scope of  
23 release to be granted by Class Members), the Parties will expeditiously work together in good  
24 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final  
25 Approval. The Court’s decision to award less than the amounts requested for the Class  
26 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation  
27 Expenses Payment and Administrator Expenses Payment shall not constitute a material  
28 modification to the Agreement within the meaning of this paragraph.

1 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the  
2 Court will retain jurisdiction over the Parties, Actions and the Settlement solely for purposes of  
3 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,  
4 and (iii) addressing such post-Judgment matters as are permitted by law.

5 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and  
6 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class  
7 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their  
8 respective counsel, and all Participating Class Members who did not object to the Settlement as  
9 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to  
10 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions  
11 for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver  
12 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the  
13 Parties' obligations to perform under this Agreement will be suspended until such time as the  
14 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect  
15 the amount of the Net Settlement Amount.

16 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the  
17 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material  
18 modification of this Agreement (including, but not limited to, the scope of release to be granted  
19 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless  
20 expeditiously work together in good faith to address the appellate court's concerns and to obtain  
21 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration  
22 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify  
23 the Court's award of the Class Representative Service Payment or any payments to Class Counsel  
24 shall not constitute a material modification of the Judgment within the meaning of this paragraph,  
25 as long as the Gross Settlement Amount remains unchanged.

## 26 **11. NO ADMISSION**

27 11.1. In entering into this Agreement, Defendant does not admit, and specifically denies, the  
28 allegations in the Action, that it violated any federal, state, or local law; violated any regulations

1 or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or  
2 legal requirements; breached any contract; violated or breached any duty; engaged in any  
3 misrepresentation or deception; or engaged in any other unlawful conduct with respect to its  
4 employees. Neither this Agreement, nor any of its terms or provisions, nor any of the  
5 negotiations connected with it, will be construed as an admission or concession by Defendant of  
6 any such violations or failures to comply with any applicable law.

## 7 **12. LIMITATIONS ON USE OF THIS SETTLEMENT**

8 12.1. Non-Evidentiary Use. Whether or not the Effective Date occurs, neither this Agreement,  
9 nor any of its terms, nor the Settlement itself, will be: (a) construed as, offered, or admitted in  
10 evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any  
11 other of the Released Parties, including but not limited to, evidence of a presumption, concession,  
12 indication, or admission by any of the Released Parties of any liability, fault, wrongdoing,  
13 omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any  
14 of the Released Parties in any further proceeding in the Actions, except for the purposes of  
15 effectuating the Settlement pursuant to this Agreement or for Defendant to establish that a Class  
16 Member has resolved any of his or her claims released through this Agreement.

17 12.2. Nullification. The Parties have agreed to the certification of the Class encompassing all  
18 claims alleged in the Actions for the sole purpose of effectuating this Agreement. If (a) the Court  
19 should for any reason fail to certify this Class for settlement, or (b) the Court should fail to finally  
20 approve this Settlement, or (c) the Court should fail to finally enter the Final Order, or (d) the  
21 Final Order is reversed, or declared or rendered void, or (e) the Court should fail to finally  
22 dispose of the Actions in their entirety, then (i) this Agreement shall be considered null and void;  
23 (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force  
24 or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as  
25 if the Agreement had been neither entered into nor filed with the Court; and (iv) the fact that the  
26 Parties were willing to stipulate to class certification of all causes of action pled in the Actions  
27 as part of the Settlement will have no bearing on, and will not be admissible in connection with,  
28 the issue of whether the Class should be certified by the Court in a non-settlement context in

1 these Actions or any other action, and in any of those events, Defendant expressly reserves the  
2 right to oppose certification of the Class. The Parties will then request that the Court reopens the  
3 proceedings within 14 days. Additionally, should the Settlement not become final, any  
4 Settlement Administration Costs already incurred by the Settlement Administrator shall be split  
5 evenly amongst the Parties. If Defendant elects to revoke the Settlement, as specified in  
6 Paragraph 9, the Parties and any monies required to be paid under this Settlement shall be  
7 returned to their respective statuses as of the date and time immediately prior to the execution of  
8 this Settlement, and the Parties shall proceed in all respects as if this Settlement had not been  
9 executed, except that any Settlement Administration Costs already incurred by the Settlement  
10 Administrator shall be paid to the Settlement Administrator by Defendant. However,  
11 notwithstanding the foregoing, the Parties agree to cooperate in addressing any Court concerns  
12 regarding the Settlement, and if necessary, meet and confer with respect to any amendments to  
13 this Agreement or supplemental briefings to address Court concerns.

14 12.3. In the event of a timely appeal from the Final Order, the Final Order shall be stayed and  
15 the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

### 16 **13. AMENDED JUDGMENT**

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

### 19 **14. ADDITIONAL PROVISIONS**

20 14.1. No Admission of Liability, Class Certification or Representative Manageability for Other  
21 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.  
22 Nothing in this Agreement is intended or should be construed as an admission by Defendant that  
23 any of the allegations in the Operative Complaint have merit or that Defendant has any liability  
24 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that  
25 Defendant's defenses in the Action have merit. The Parties agree that class certification and  
26 representative treatment is for purposes of this Settlement only. If, for any reason the Court does  
27 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to  
28 contest certification of any class for any reasons, and Defendant reserves all available defenses

1 to the claims in the Action, and Plaintiff reserves the right to move for class certification on any  
2 grounds available and to contest Defendant's defenses. The Settlement, this Agreement and  
3 Parties' willingness to settle the Action will have no bearing on, and will not be admissible in  
4 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement  
5 and this Agreement). Payment of wages does not extend or alter the Class Members' or  
6 Aggrieved Employees' period of employment for any purpose.

7 14.2. Confidentiality. Plaintiff, Class Counsel, Defendant and Defense Counsel separately  
8 agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of  
9 them will not disclose, disseminate and/or publicize, or cause or permit another person to  
10 disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly,  
11 specifically or generally, to any person, corporation, association, government agency, or other  
12 entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed  
13 to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary  
14 to report income to appropriate taxing authorities; (4) in response to a court order or subpoena;  
15 or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each  
16 Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or  
17 subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel  
18 separately agree not to, directly or indirectly, initiate any conversation or other communication,  
19 before the filing of the Motion for Preliminary Approval, any with third party regarding this  
20 Agreement or the matters giving rise to this Agreement except to respond only that "the matter  
21 was resolved," or words to that effect. This paragraph does not restrict Class Counsel's  
22 communications with Class Members in accordance with Class Counsel's ethical obligations  
23 owed to Class Members.

24 14.3. No Solicitation. The Parties separately agree that they and their respective counsel and  
25 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal  
26 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's  
27 ability to communicate with Class Members in accordance with Class Counsel's ethical  
28 obligations owed to Class Members.



1 14.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement  
2 together with its attached exhibits shall constitute the entire agreement between the Parties  
3 relating to the Settlement, superseding any and all oral representations, warranties, covenants or  
4 inducements made to or by any Party.

5 14.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and  
6 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate  
7 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate  
8 its terms and to execute any other documents reasonably required to effectuate the terms of this  
9 Agreement including any amendments to this Agreement.

10 14.6. Cooperation. The Parties and their counsel will cooperate with each other and use their  
11 best efforts, in good faith, to implement the Settlement by, among other things, modifying the  
12 Settlement Agreement, submitting supplemental evidence, and supplementing points and  
13 authorities as requested by the Court. In the event the Parties are unable to agree upon the form  
14 or content of any document necessary to implement the Settlement or on any modification of the  
15 Agreement that may become necessary to implement the Settlement, the Parties will seek the  
16 assistance of the Court for resolution.

17 14.7. No Prior Assignments. The Parties separately represent and warrant that they have not  
18 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer or  
19 encumber to any person or entity and portion of any liability, claim, demand, action, cause of  
20 action or right released and discharged by the Party in this Settlement.

21 14.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are  
22 providing any advice regarding taxes or taxability nor shall anything in this Settlement be relied  
23 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR  
24 Part 10, as amended) or otherwise.

25 14.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
26 modified, changed, or waived only by an express written instrument signed by all Parties or their  
27 representatives, and approved by the Court.

28 14.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to

1 the benefit of, the successors of each of the Parties.

2 14.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
3 governed by and interpreted according to the internal laws of the State of California, without  
4 regard to conflict of law principles.

5 14.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of  
6 this Agreement. This Agreement will not be construed against any Party on the basis that the  
7 Party was the drafter or participated in the drafting.

8 14.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered  
9 during Action and in this Agreement relating to the confidentiality of information shall survive  
10 the execution of this Agreement.

11 14.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.  
12 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by  
13 Defendant in connection with the mediation, other settlement negotiations or in connection with  
14 the Settlement, may be used only with respect to this Settlement and no other purpose, and may  
15 not be used in any way that violates any existing contractual agreement, statute, or rule of court.

16 14.15. No Third-Party Beneficiaries. Plaintiff, Participating Class Members, Aggrieved  
17 Employees, the State of California, Class Counsel, and Defendant are direct beneficiaries of this  
18 Agreement, but there are no third-party beneficiaries.

19 14.16. No Public Comment. The Class Representative and Class Counsel will not make any  
20 public disclosures of any kind regarding the Settlement, including but not limited to postings on  
21 Class Counsel's website and postings on any social media sites/outlets. Class Counsel will take  
22 all steps necessary to ensure the Class Representative is aware of, and will encourage her to  
23 adhere to, the restriction against any public disclosures regarding the Settlement. Class Counsel  
24 will not include or use the Settlement for any marketing or promotional purposes, or for  
25 attempting to influence Defendant's business relationships, either before or after the Motion for  
26 Preliminary Approval is filed. Following preliminary approval of the Settlement, the Class  
27 Representative and Class Counsel will not initiate any communications with the media or third  
28 parties. If contacted by the media or third parties (except for Class Members and the Settlement

1 Administrator), the Class Representative and Class Counsel will only discuss information  
2 publicly available. Class Counsel will take all steps necessary to ensure the Class Representative  
3 is aware of, and will encourage her to adhere to, the restriction against initiating any media  
4 comment. Class Counsel further agrees not to use the Settlement or any of its terms for any  
5 marketing or promotional purposes. Nothing herein will restrict Class Counsel from including  
6 publicly available information regarding this settlement in future judicial submissions regarding  
7 Class Counsel's qualifications and experience.

8 14.17. Duty to Support and Defend the Settlement. The Parties agree to abide by all of the terms  
9 of this Agreement in good faith and to support the Settlement fully and to use their best efforts  
10 to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

11 14.18. Headings. The descriptive heading of any section or paragraph of this Agreement is  
12 inserted for convenience of reference only and does not constitute a part of this Agreement.

13 14.19. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall  
14 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a  
15 weekend or federal legal holiday, such date or deadline shall be on the first business day  
16 thereafter.

17 14.20. Execution in Counterparts. This Agreement may be executed in one or more counterparts  
18 by facsimile, electronically (i.e., DocuSign) or email, which, for purposes of this Agreement,  
19 shall be accepted as an original. All executed counterparts and each of them will be deemed to  
20 be one and the same instrument if counsel for the Parties will exchange between themselves  
21 signed counterparts. Any executed counterpart will be admissible in evidence to prove the  
22 existence and contents of this Agreement.

23 14.21. Stay of Litigation. The Parties agree that upon the execution of this Agreement the  
24 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further  
25 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend  
26 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement  
27 process.

28 14.22. Severability. In the event that one or more of the provisions contained in this Agreement

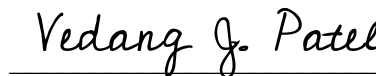
1 shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity,  
2 illegality or unenforceability shall in no way effect any other provision if Defense Counsel and  
3 Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to  
4 proceed as if such invalid, illegal or unenforceable provision had never been included in this  
5 Agreement.

6  
7 **IT IS SO AGREED:**

8  
9  
10   
Natasha Williams (Jul 11, 2023 16:55 PDT)

11 For Plaintiff, Natasha Williams

For Defendant, Marrs Services, Inc.

12  7/16/2023

13 David D. Bibiyan  
14 Vedang J. Patel  
Counsel for Plaintiff, Natasha Williams

15 Karen Luh  
16 Martin P. Vigodnier  
17 Counsel for Defendant, Marrs Services, Inc.

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5 Agreement.

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8  
9  
10   
Natasha Williams (Jul 11, 2023 16:55 PDT)

11 For Plaintiff, Natasha Williams

  
12 Rubina Chaudhary  
13 For Defendant, Marrs Services, Inc.

14 David D. Bibiyan  
15 Vedang J. Patel  
16 Counsel for Plaintiff, Natasha Williams

  
17 Karen Luh  
18 Martin P. Vigodnier  
19 Counsel for Defendant, Marrs Services, Inc.