

1 **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE**

2 This Class Action and PAGA Settlement Agreement is entered into by and between
3 Plaintiffs Jazzina Williams (“Plaintiff Williams”) and Erlinda Reyes (collectively, at times
4 “Plaintiffs”), individually and on behalf of all others similarly situated, and Defendant VITAS
5 Healthcare Corporation of California (collectively with Plaintiffs, the “Parties”), and is approved
6 by their respective counsel of record, subject to the terms and conditions hereof and the Court’s
7 approval.

8 The Parties agree as follows:

9 **A. Definitions**

10 The following definitions are applicable to this Settlement Agreement. Definitions
11 contained elsewhere in this Settlement Agreement will also be effective:

12 1. “Action” or “Lawsuit” means and refers to the cases entitled *Jazzina Williams v.*
13 *VITAS Healthcare Corporation of California*, Case No. RG17853886, filed in Alameda Superior
14 Court, and *Erlinda Reyes v. VITAS Healthcare Corporation of California*, Case No.
15 21CV383092, filed in Santa Clara Superior Court.

16 2. “Aggrieved Employees” means all persons who are or were previously employed
17 by Defendant in California classified as a non-exempt clinical employee at any time from May
18 16, 2019, until January 16, 2023.

19 3. “Agreement,” “Settlement Agreement and Release,” “Settlement,” or
20 “Stipulation” shall mean this Class Action and PAGA Settlement Agreement and Release of
21 Claims, including any attached Exhibits.

22 4. “Class Claims” or “Released Class Claims” will include all claims that were pled
23 in the Complaint and all claims that could have been alleged in the Complaint based on the facts
24 alleged therein, including, but not limited to, claims for failure to pay all minimum wages, failure
25 to pay overtime wages, meal and rest break violations, failure to pay or timely pay all owed and
26 due wages during employment and upon separation of employment, failure to reimburse
27 necessary business expenses, failure to provide accurate itemized wage statements, and unfair
28 competition including unlawful business practices.

1 5. “Class Counsel” refers to Kevin Woodall of Woodall Law Offices, Mehrdad
2 Bokhour of Bokhour Law Group, P.C. and Joshua Falakassa of Falakassa Law, P.C., collectively.

3 6. “Class Data” means a complete list that Defendant will diligently and in good faith
4 compile from its records and provide to the Settlement Administrator on one spreadsheet and
5 shall include the Settlement Class Members’ full names; last known addresses; telephone
6 numbers; Social Security Numbers; and dates of employment and/or number of Workweeks
7 Worked in California as non-exempt or hourly employees of Defendant during the Class Period
8 and the PAGA Period for each Settlement Class Member.

9 7. “Class Period” and “Class Release Period” shall mean May 16, 2019, until January
10 16, 2023.

11 8. “Class Representatives” or “Plaintiffs” means and refers to Jazzina Williams and
12 Erlinda Reyes.

13 9. “Complaint” refers to the original complaint and any amended complaints filed in
14 the Action..

15 10. “Court” means the California Superior Court, County of Santa Clara or any other
16 Court of competent jurisdiction.

17 11. “Defendant” means and refers to VITAS Healthcare Corporation of California.

18 12. “Defendant’s Counsel” or “Defense Counsel” means and refers to Reed E.
19 Schaper, Monte Grix, Ferry Lopez, and Adam Maldonado of Hirschfeld Kraemer LLP.

20 13. “Effective Date” means either (i) the sixty-first (61st) calendar day after the Court
21 signs an Order granting Final Approval of the Settlement Agreement, provided no appeal has
22 been initiated and no motion to vacate has been filed, whether by an absent class member who
23 has timely intervened or moved to vacate the judgment, or by a party or class counsel; or (ii) if
24 such an appeal or motion to vacate is timely initiated, the date of final resolution of that appeal or
25 motion (including any requests for rehearing or appeals, including petitions for certiorari),
26 resulting in final judicial approval of the Settlement Agreement. “Final Approval” refers to the
27 date on which the Court enters an order granting final approval of this Settlement Agreement.
28

1 14. “Final Settlement Class” means, collectively, all Participating Class Members and
2 all Aggrieved Employees.

3 15. “Individual Settlement Amount” shall have the meaning ascribed to it in Paragraph
4 47(d) below.

5 16. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(c)
6 below.

7 17. “Notice” means the notice of settlement of Class Action and PAGA Settlement
8 that will be sent to the Settlement Class Members.

9 18. “Notice Response Deadline” is forty-five (45) calendar days from the date the
10 Notice is mailed to the Settlement Class Members.

11 19. “Objecting Settlement Class Member” means a Settlement Class Member, other
12 than Plaintiffs, who submits a valid and timely objection to the terms of this Agreement with
13 respect to the Class Claims pursuant to Paragraph 70(a) below.

14 20. “PAGA” shall refer to the California Labor Code Private Attorneys General Act
15 of 2004, California Labor Code sections 2698–2699.5.

16 21. “PAGA Claims” or “Released PAGA Claims” shall include any and all claims for
17 civil penalties pursuant to PAGA based on the allegations stated in the PAGA Notice and that
18 were or could have been pled in the Complaint based on the facts alleged therein , including but
19 not limited to claims for failure to pay minimum wages, failure to pay overtime wages and/or
20 failure to pay such wages at the correct rate(s) of pay, failure to timely pay wages during
21 employment and when employment ends, failure to reimburse business expenses, meal and rest
22 break violations, failure to provide accurate itemized wage statements, unfair and unlawful
23 business practices, and reporting time pay/practices.

24 22. “PAGA Notice” shall refer to the notices sent by Plaintiffs, by and through
25 counsel, on or about March 11, 2017, April 20, 2021 and June 14, 2021, to the LWDA and to
26 Defendant, alleging that Defendant engaged in violations of the California Labor Code and
27 California Wage Order(s).

1 23. “PAGA Period” and “PAGA Release Period” shall mean May 16, 2019, until
2 January 16, 2023.

3 24. “Participating Class Member” means any and all Settlement Class Members who
4 receive an Individual Settlement Amount for the Class Claims and who do not opt-out of the
5 settlement of the Class Claims by submitting timely and valid Requests for Exclusion.

6 25. “Parties” or “Settling Parties” mean Plaintiffs, the Settlement Class Members, the
7 Aggrieved Employees, and Defendant, collectively.

8 26. “Preliminary Approval Date” means the date on which the Court enters an order
9 granting preliminary approval of the Settlement Agreement.

10 27. “Preliminary Approval Order” means the judicial Order to be entered by the Court,
11 upon the application or motion of the Plaintiffs, preliminarily approving this Settlement and
12 providing for the issuance of the Notice to the Settlement Class Members, an opportunity to opt
13 out of settlement of the Class Claims, an opportunity to submit timely objections to the terms of
14 this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of
15 Settlement, including approval of attorneys’ fees and costs.

16 28. “QSF” means the Qualified Settlement Fund managed by the Settlement
17 Administrator for the benefit of the Final Settlement Class, and from which the settlement
18 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue
19 Code Section 468.

20 29. “Release” shall mean the complete release and discharge of the Class Claims by
21 Plaintiffs and all of the Participating Class Members and the complete release and discharge of
22 the PAGA Claims by Plaintiffs and all of the Aggrieved Employees against Defendant.

23 30. “Released Parties” shall refer to Defendant, its current and former officers,
24 directors, members, employees, managers, shareholders, agents, insurers, charitable
25 organizations, parents, subsidiaries, affiliates, operators, partners, attorneys, predecessors in
26 interest, successors, heirs, representatives, accountants, auditors, consultants, insurers and
27 reinsurers, and assignees, and their respective successors and predecessors in interest,
28 subsidiaries, affiliates, parents and attorneys, if any.

1 31. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 70(a)
2 below.

3 32. “Service Payment” or “Service Award” means the amount approved by the Court
4 to be paid to Class Representatives in addition to their Individual Settlement Amount as
5 Participating Class Members.

6 33. “Settlement Administration Costs” means the costs payable from the Settlement
7 Amount to the Settlement Administrator for administering this Settlement, including, but not
8 limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, due
9 diligence, reporting and remittance obligations, distributing the Settlement Amount, and
10 providing necessary reports and declarations, as requested by the Parties. The Settlement
11 Administration Costs shall be paid from the Settlement Amount.

12 34. “Settlement Administrator” means and refers to Phoenix Class Action
13 Administration Solutions, which the Parties have mutually agreed will provide the Notice to the
14 Class Members and distribute the settlement amounts as described in this Agreement. The Parties
15 each represent that they do not have any financial interest in the Settlement Administrator or
16 otherwise have a relationship with the Settlement Administrator that could create a conflict of
17 interest.

18 35. “Settlement Amount” or “Gross Settlement Amount” shall have the meaning
19 ascribed to it in Paragraph 47(a) below.

20 36. “Settlement Class Member” or “Class Member” refers to individual members of
21 the Settlement Class.

22 37. “Settlement Class” and “Settlement Class Members” refers to all persons who are
23 or were previously employed by Defendant in California classified as a non-exempt employee
24 during the Class Period.

25 38. “Williams Individual Claims Payment” shall mean and refer to the payment to
26 Plaintiff Williams of \$15,000 (Fifteen Thousand Dollars) in exchange for her full release of all
27 individual claims she has or claims to have against Defendant or any of the Released Parties,
28 including those claims that pre-date the Class Period.

39. “Workweeks Worked” for each Settlement Class Member and Aggrieved Employee means any workweek during the Class Period and/or the PAGA Period, as applicable, in which the Settlement Class Member and/or Aggrieved Employee was employed by Defendant as a non-exempt employee in California and worked at least one shift during the workweek for Defendant. Workweeks Worked shall not include weeks where a Settlement Class Member and/or Aggrieved Employee only had sick time, vacation time, was on leave, or otherwise did not record any actual work time in Defendant’s timekeeping system. Workweeks Worked will be calculated based on Defendant’s business records.

B. General Terms

40. In March and May, 2017, Plaintiff Jazzina Williams filed her original and first amended class action complaints alleging: (1) failure to provide proper itemized wage statements; (2) failure to pay minimum and regular wages; (3) failure to pay overtime wages; (4) failure to pay premium pay for missed meal and rest periods; (5) failure to reimburse business expenses; and (6) violation of the PAGA. In August 2021, after Defendant settled other class actions, Plaintiff Jazzina Williams opted out of that settlement and filed a second amended complaint alleging her individual claims for failure to provide proper itemized wage statements, failure to pay minimum and regular wages, failure to pay overtime wages and failure to pay premium pay for missed meal and rest periods. In addition, Plaintiff Williams’ second amended complaint alleged a class action claim asserting that Defendant failed to reimburse necessary business expenses and PAGA claims asserting Defendant failed to reimburse necessary business expenses and timely pay wages during employment. On or about June 16, 2021, Plaintiff Erlinda Reyes filed a class action complaint against Defendant, including allegations of: (1) failure to pay all minimum wages, (2) failure to pay overtime wages, (3) rest period violations, (4) wage statement violations (5) failure to reimburse for necessary business expenses; (6) waiting time penalties, and (7) unfair competition. On or about October 25, 2021, Plaintiff Reyes filed a First Amended Complaint to add a cause of action for PAGA penalties based on the foregoing Labor Code violations. Plaintiffs will file a Second Amended Complaint that will add a meal period claim, a claim for failure to timely pay wages under Labor Code sections 204 and 210, and allegations

1 regarding reporting time pay within their minimum wage and overtime causes of action. This
2 Second Amended Complaint will also Jazzina Williams as a plaintiff and Kevin Woodall of
3 Woodall Law Offices as class counsel.

4 41. Defendant denies Plaintiffs' claims and allegations and contends that the Action
5 is not suitable for class certification and/or representative treatment.

6 42. Class Representatives believe they can proceed with their class and representative
7 claims, that the Action is meritorious, and that class certification is appropriate.

8 43. The Parties have conducted a thorough investigation into the underlying facts and
9 circumstances of the Action. This has included conducting extensive exchanges of informal
10 discovery, including Defendant's employee handbooks and related written policies and practices,
11 the production of records showing the mileage of Settlement Class Members and Aggrieved
12 Employees and the production of payroll and timekeeping records for Settlement Class Members
13 and Aggrieved Employees. Class Counsel is both knowledgeable about and has done extensive
14 research with respect to the applicable law and potential defenses to the claims of the Settlement
15 Class Members and Aggrieved Employees. Class Counsel has diligently pursued an investigation
16 of the Class Members' claims against Defendant. Based on the foregoing data and on their own
17 independent investigation and evaluation, Class Counsel is of the opinion that the settlement with
18 Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair,
19 reasonable, and adequate and is in the best interests of the Settlement Class Members and
20 Aggrieved Employees in light of all known facts and circumstances, including the risk of
21 significant delay and uncertainty associated with litigation, various defenses asserted by
22 Defendant, and numerous potential appellate issues.

23 44. On July 27, 2022, the Parties participated in mediation before Steven Serratore, a
24 highly experienced class action mediator. Although the Parties did not reach a settlement on that
25 date, they continued their extensive and arms-length negotiations, through Mr. Serratore, and
26 reached a settlement following mediation.

27 45. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
28 to be performed or judgments to be entered pursuant to the terms of the Settlement and

1 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
2 any statute, law, wage order, or liability in any capacity regarding the claims or allegations in the
3 Action.

4 46. Stipulation for Class Certification and Representative Treatment. For settlement
5 purposes only, Defendant will stipulate that the Settlement Class Members described herein who
6 do not Request Exclusion from the Settlement Class may be conditionally certified as a settlement
7 class and that the Aggrieved Employees are appropriate for representative treatment for purposes
8 of settlement. This stipulation to certification and representative treatment is in no way an
9 admission that class action certification and/or representative treatment is proper and shall not be
10 admissible in this or in any other action except for the sole purposes of enforcing this Agreement.
11 Should, for whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to
12 class certification and representative treatment as part of the Settlement shall become null and
13 void *ab initio* and shall have no bearing on and shall not be admissible in connection with the
14 issue of whether or not class certification and/or representative treatment would be appropriate in
15 any other context. Defendant expressly reserves its rights and declares that it will continue to
16 oppose class certification, representative treatment, and the substantive merits of the case should
17 the Court fail to issue Final Approval. Plaintiffs expressly reserve their right and declare that they
18 will continue to pursue class certification and representative treatment and a trial should the Court
19 fail to issue Final Approval.

20 **C. Terms of Settlement**

21 47. The financial terms of the Settlement are as follows:

22 (a) Gross Settlement Amount: The Parties agree to settle this Action for Three Million
23 Four Hundred Fifty Thousand Dollars (\$3,450,000.00) ("the Settlement Amount"). The
24 Settlement Amount is the maximum amount that will be paid by Defendant, and includes
25 Individual Settlement Amounts, all attorneys' fees of Class Counsel, costs and expenses, the full
26 release payment to Plaintiff Jazzina Williams, the Service Payment to Class Representatives, all
27 Settlement Administration Costs, and payment to the Labor Workforce Development Agency
28 (LWDA) for PAGA penalties. Defendant shall separately pay the employers' share of applicable

1 payroll taxes.

2 (b) The Settlement is based on Defendant's representation that there are
3 approximately 195,000 workweeks. In the event that the actual number of workweeks worked
4 by all Class Members during the Class Period increases by 25,000 or more, the Parties may agree
5 to proportional escalation above 220,000 workweeks, or the Settlement may be rescinded by
6 either Party. A proportional escalation of 2,200 workweeks above 220,000 workweeks, for
7 example (22,200 workweeks total), would result in an additional gross payment of \$34,500 (1%
8 increase of Gross Settlement Amount proportional to 1% increase above 220,000 workweeks),
9 should the Parties so agree.

10 (c) Net Settlement Amount: The "Net Settlement Amount" is defined as the
11 Settlement Amount less attorneys' fees and litigation costs as approved and awarded by the Court,
12 the Service Payment of \$10,000 to each of the Class Representatives as approved and awarded
13 by the Court, the Williams Individual Claims Payment of Fifteen Thousand Dollars (\$15,000),
14 the Settlement Administration Costs, as approved and awarded by the Court, and the Fifteen
15 Thousand Dollars (\$15,000.00) PAGA payment to the LWDA related to PAGA penalties as
16 described in paragraph 47(d) below. In the event that the Court reduces the attorneys' fees and
17 litigation costs or Service Awards, Settlement Administration Costs, or either increases or
18 decreases the amount allocated to PAGA penalties, the Net Settlement Sum shall be increased or
19 decreased accordingly.

20 (d) Individual Settlement Amounts for the Settlement Class: The Settlement
21 Administrator will use the Class Data provided by Defendant to calculate each Participating Class
22 Member's and Aggrieved Employee's Individual Settlement Amount based on the following
23 formula:

24 i. PAGA Amount: \$20,000 of the Gross Settlement Amount has been
25 designated to the PAGA claims. Twenty-five percent (25%) or \$5,000, shall be paid out to
26 Aggrieved Employees, while seventy-five percent (75%), or \$15,000, will be paid to the LWDA.
27 Each Aggrieved Employee shall receive a portion of the \$5,000 proportionate to the number of
28 Workweeks Worked by the Aggrieved Employees during the PAGA Period compared to the total

number of Workweeks Worked by all Aggrieved Employees during the PAGA Period. Aggrieved Employees shall have their settlement amount for the Released PAGA claims paid one hundred percent (100%) as civil penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the Settlement Administrator.

ii. Class Amount: The Net Settlement Amount shall be allocated to each Participating Class Member based on his/her/their proportionate Workweeks Worked during the Class Period. This is determined by multiplying the Net Settlement Amount by a fraction, the numerator of which is the Participating Class Member's total Workweeks Worked during the Class Period, and the denominator of which is the total Workweeks Worked by all Participating Class Members during the Class Period. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Amounts for each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount allocated toward Released Class Claims.

(e) Allocation of Individual Settlement Amounts: The Individual Settlement Amounts will be allocated for tax purposes based on the allegations in the Action as follows: twenty percent (20%) will be paid as wages subject to withholding of all applicable local, state, and federal taxes; and eighty percent (80%) will be paid as interest and as civil penalties (pursuant to, *e.g.*, California Labor Code sections 203, 226) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the civil penalties and interest allocations.

(f) Service Payment to Class Representative: The amount awarded to Class Representatives as a Service Payment will be set by the Court in its discretion, not to exceed \$10,000. Defendant agrees not to oppose this request. The Service Payment to Class Representatives will be paid out of the Gross Settlement Amount. Class Representatives will be issued IRS Form 1099 in connection with this payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on this payment. The Parties agree that any amount awarded by the Court as the Service Payment to Plaintiffs less than the requested amount shall

1 not be a basis for Plaintiffs or Class Counsel to void this Stipulation. Should the Court approve a
2 lesser amount for any Service Payment, the difference shall be added to the Net Settlement
3 Amount to be distributed to the Participating Class Members. In the event of any appeal of the
4 amount of any Service Payment (if any) approved by the Court, if, after the exhaustion of any
5 such appellate review, additional amounts not awarded to Class Representatives shall be added
6 to the Net Settlement Amount to be distributed to the Participating Class Members.

7 (g) Attorneys' Fees and Costs: Defendant agrees not to oppose a request by Class
8 Counsel to the Court for an award of attorneys' fees of one-third (33.33%) of the Settlement
9 Amount (approximately \$1,150,000), plus reasonable litigation costs not to exceed \$25,000
10 ("Attorneys' Fees and Cost Award"). For purposes of this Settlement, Defendant agrees not to
11 oppose any contention by Class Counsel that attorneys' fees should be based on the common fund
12 theory. The Attorneys' Fee and Cost Award shall be paid from the Gross Settlement Amount, and
13 except for this award, Defendant shall have no further obligation to pay any attorneys' fees, costs,
14 or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by
15 Class Counsel, the difference shall be added to the Net Settlement Amount to be distributed to
16 the Participating Class Members. Any Court order awarding less than the amount sought by Class
17 Counsel shall not be grounds to rescind the Settlement Agreement or otherwise void the
18 Settlement. In the event of any appeal of the amount of the awards of attorneys' fees and costs (if
19 any) approved by the Court, final funding and administration of the portion of the attorneys' fees
20 and/or costs award in dispute will be segregated and stayed pending the exhaustion of appellate
21 review. If, after the exhaustion of any such appellate review, additional amounts not awarded to
22 as attorneys' fees and costs shall be added to the Net Settlement Amount to be distributed to the
23 Participating Class Members and/or Aggrieved Employees. It is understood and agreed by the
24 Parties, Class Counsel and Defendant's counsel that no amounts designated herein as Class
25 Counsel's attorney's fees or expenses are accessible or otherwise available to Class Counsel until
26 the payment amount and method are agreed to by Class Counsel and the Settlement Administrator
27 pursuant to a distribution agreement and the Joint Prosecution and Fee-Sharing Agreement.
28 Woodall Law Offices shall not be entitled to receive any attorney's fees or expenses until after it

1 has confirmed any funds relating to uncashed checks of Participating Class Members have been
2 forwarded to the California Unclaimed Property Fund, as set forth in Paragraph 74 (below). IRS
3 Form 1099s shall be issued to Class Counsel reflecting the amount of attorneys' fees and costs
4 awarded by the Court. Class Counsel agrees that any allocation of fees between or among Class
5 Counsel and any other attorney representing or claiming to represent the Class Members shall be
6 the sole responsibility of Class Counsel.

7 (h) Settlement Administration Costs: The fees and other charges of the Settlement
8 Administrator will be paid from the Gross Settlement Amount, not to exceed \$20,000 subject to
9 Court approval, unless approved by all Parties and the Court.

10 (j) Tax Liability: Class Counsel, Defendant, and Defendant's Counsel make no
11 representations as to the tax treatment or legal effect of Settlement Amounts called for hereunder,
12 and Plaintiffs and the Settlement Class Members are not relying on any statement or
13 representation by Class Counsel, Defendant, or Defendant's Counsel in this regard. Plaintiffs and
14 Final Settlement Class Members understand and agree that they will be solely responsible for the
15 payment of any taxes and penalties assessed on their respective Settlement Amounts described
16 herein. Income tax withholding will also be made pursuant to applicable federal, state, and/or
17 local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times
18 and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent
19 with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax
20 law, are changed after the date of this Agreement, the processes set forth in this Section may be
21 modified in a manner to bring Defendant into compliance with any such changes.

22 (k) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR
23 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
24 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
25 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
26 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
27 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
28 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE

1 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
2 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31
3 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
4 EXCLUSIVELY UPON HIS, HER, THEIR, OR ITS OWN, INDEPENDENT LEGAL AND
5 TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH
6 THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON
7 THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR
8 TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
9 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
10 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
11 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
12 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
13 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
14 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
15 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
16 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
17 AGREEMENT.

18 48. No Credit Towards Benefit Plans. The Individual Settlement Payments and
19 Individual PAGA Payments made to Participating Class Members and/or Aggrieved Employees
20 under this Settlement, as well as any other payment made pursuant to this Settlement, will not be
21 utilized to calculate any additional benefits under any benefit plans to which any Class Members
22 and/or Aggrieved Employees may be eligible, including but not limited to: profit-sharing plans,
23 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and
24 any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
25 affect the rights, contributions, or amounts to which any Class Member and/or Aggrieved
26 Employees may be entitled under benefit plans.

27 49. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under
28 no circumstances will any portion of the Settlement Amount revert to Defendant. Final Settlement

1 Class Members will not have to make a claim to receive an Individual Settlement Amount.
2 Individual distributions, in the form of Individual Settlement Amounts, will be made directly to
3 each Final Settlement Class Member. The Settlement Administrator shall be responsible for
4 accurately and timely reporting any remittance obligations with respect to unclaimed funds as a
5 result of a Final Settlement Class Member not cashing an Individual Settlement Amount by the
6 check cashing deadline, as set forth herein.

7 50. Class Counsel and Plaintiffs, believe that the Settlement is fair and reasonable,
8 and adequate, and will so represent same to the Court.

9 **D. Release by Plaintiffs and the Final Settlement Class**

10 51. Upon the Effective Date of this Settlement, Plaintiffs and each Participating Class
11 Member, together and individually, for themselves and for their respective spouses, domestic
12 partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries,
13 devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and
14 representatives, shall be deemed to have fully, forever, and completely released and discharged
15 all of the Released Parties from, or any of them, from each of the Released Class Claims arising
16 during the Class Release Period.

17 52. Each Participating Class Member will be deemed to have made the foregoing
18 Release as if by manually signing it.

19 53. Upon the Effective Date of this Settlement, Plaintiffs, the LWDA, and each
20 Aggrieved Employee, for themselves and for their respective spouses, domestic partners, marital
21 community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees,
22 executors, administrators, trustees, conservators, guardians, assigns, and representatives, will
23 forever completely release and discharge the Released Parties from the Released PAGA Claims
24 for the PAGA Release Period.

25 54. Each Aggrieved Employee and the LWDA will be deemed to have made the
26 foregoing Release as if by manually signing it.

27 55. Plaintiffs and Defendant intend that the Settlement described in this Agreement
28 will release and preclude any further claim, whether by lawsuit, administrative claim or action,

1 arbitration, demand, or other action of any kind, by each and all of the Participating Class
2 Members to obtain a recovery based on, arising out of, and/or related to any and all of the Released
3 Class Claims. The Settlement Class Members shall be so notified in the Notice. This paragraph
4 does not apply to any Settlement Class Member who timely and validly opts out of the Settlement
5 for purposes of Class Claims.

6 56. Plaintiffs and Defendant intend that the Settlement described in this Agreement
7 will release and preclude any further claims, whether by lawsuit, administrative claim or action,
8 arbitration, demand, or other action of any kind, by the LWDA to obtain recovery based on,
9 arising out of, and/or related to any and all of the Released PAGA Claims.

10 57. Class Representatives, on behalf of themselves and the Participating Settlement
11 Class Members, acknowledge and agree that the claims for (1) failure to pay all minimum wages;
12 (2) failure to pay overtime wages; (3) meal and rest period violations; (4) wage statement
13 violations; (5) failure to reimburse for necessary business expenses; (6) waiting time penalties;
14 (7) unfair competition; and (8) PAGA penalties are disputed, and that the payments set forth
15 herein constitute payment of all sums allegedly due to each of them. Class Representatives, on
16 behalf of themselves and the Participating Settlement Class Members, acknowledge and agree
17 that California Labor Code Section 206.5 is not applicable to the Parties hereto. Section 206.5
18 provides in pertinent part as follows:

19 An employer shall not require the execution of any release of any claim or right on
20 account of wages due, or to become due, or made as an advance on wages to be
21 earned, unless payment of those wages has been made.

22 **E. Release by Class Representatives**

23 58. As a material inducement to Defendant to enter into this Settlement Agreement, in
24 addition to Class Representatives' release of the Released Class Claims and Released PAGA
25 Claims, as discussed in Paragraphs 53 and 55 above, Class Representatives do hereby, for
26 themselves and for their respective spouses, domestic partners, marital community, children,
27 estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors,
28 administrators, trustees, conservators, guardians, assigns, and representatives, forever completely

1 release and discharge the Released Parties from any and all charges, complaints, claims,
2 liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes
3 of action, suits, rights, demands, costs, losses, debts, and expenses (including for back wages,
4 statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys'
5 fees, and costs) of any nature whatsoever, from the beginning of time through the execution of
6 this Stipulation, whether known or unknown, suspected or unsuspected, concealed or hidden,
7 including but not limited to all claims arising out of, based upon, or relating to Class
8 Representatives' employment with Defendant or the remuneration for or termination of such
9 employment (collectively, the "Class Representatives' Claims").

10 59. Without limiting the generality of the foregoing, Class Representatives also
11 expressly release all claims or rights against Released Parties arising out of or relating to alleged
12 violations of any contracts, express or implied (including but not limited to any contract of
13 employment); any contract or covenant of good faith and fair dealing (express or implied); any
14 tort, including but not limited to, negligence, fraud, misrepresentation and violation of California
15 Labor Code section 970, negligent infliction of emotional distress, intentional infliction of
16 emotional distress, defamation, "retaliation" claims and claims for violation of public policy, any
17 claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid
18 wages, unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and
19 alleged "off the clock" work under federal and state law, including, but not limited to, California
20 Labor Code Sections 204 and 558, waiting time penalties pursuant to California Labor Section
21 203, damages, or penalties pursuant to California Labor Code Section 226, meal period and rest
22 break payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure
23 to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or
24 civil penalties pursuant to California Labor Code Sections 210, failure to indemnify for business
25 expenses pursuant to Labor Code section 2802, failure to provide one day of rest in seven pursuant
26 to California Labor Code Sections 551 and 552, any other claim under the California Labor Code,
27 including but not limited to any claims for whistleblower retaliation under Labor Code section
28 1102.5, unfair competition and unfair business practices pursuant to Business and Professions

Code Section 17200 *et seq.*, interest and costs pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs, including those pursuant to California Labor Code Section 1194 *et seq.*; claims under the Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the alleged violation or breach of any other state or federal statute, rule, and or regulation; including all applicable Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs, or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge," "constructive discharge," and "retaliation" claims; any claims relating to any breach of public policy; any legal restrictions on Defendant's right to discharge employees; and any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) and California Labor Code 1197.5 (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government Code § 12900 *et seq.* (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), or age, including retaliation for reporting discrimination or harassment); (7) California Family Rights Act, Cal. Government Code § 12945.1 *et seq.* (family/medical leave); (8) California Labor Code, including Section 1720 *et seq.*, or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (10) Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; (13) Employee Retirement Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits); (14) the California Civil Code; (15) the

1 California Labor Code; (16) the California Constitution; (17) the National Labor Relations Act;
2 and (18) any other federal, state, or local statute or legislation.

3 60. Class Representatives expressly waive and relinquish all rights and benefits
4 afforded by Section 1542 of the Civil Code of the State of California and does so understanding
5 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
6 of the State of California states:

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

12 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
13 full and complete release and discharge of all parties, Class Representatives, and Class Counsel
14 expressly acknowledge that this Settlement Agreement is intended to include in its effect, without
15 limitation, all claims that Class Representatives knew of, as well as all claims that they do not
16 know or suspect to exist in their favor against the Released Parties, or any of them, for the time
17 period from the beginning of time to the execution of this Settlement Agreement, and that this
18 Settlement Agreement contemplates the extinguishment of any such Class Representatives'
19 claims.

20 **F. Interim Stay of Proceedings**

21 61. Pending completion of all of the prerequisites necessary to effectuate this
22 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action
23 except such as are necessary to effectuate the Settlement.

24 **G. Notice Process**

25 62. Appointment of Settlement Administrator. The Parties have agreed to the
26 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
27 including mailing the Notice, using standard devices to obtain forwarding addresses,
28 independently reviewing and verifying documentation associated with any claims or opt-out

1 requests, resolving any disputes regarding the calculation or application of the formula for
2 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
3 Final Settlement Class Members, issuing Forms W-2 and 1099, reporting to taxing authorities,
4 due diligence, reporting and remittance obligations, and performing such other tasks as set forth
5 herein or as the Parties mutually agree or that the Court orders.

6 63. Disputes Regarding Settlement Administration. Any and all disputes relating to
7 administration of the Settlement by the Settlement Administrator (except for disputes regarding
8 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
9 over the terms and conditions of this Settlement Agreement, until Plaintiffs and Defendant notify
10 the Court that all payments and obligations contemplated by this Settlement Agreement have been
11 fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in
12 good faith to resolve the dispute without the necessity of Court intervention. The Settlement
13 Administrator shall also be responsible for issuing to Plaintiffs, Final Settlement Class Members,
14 and/or Class Counsel any Forms W-2, Forms 1099, or other Tax Forms as may be required by
15 law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be
16 responsible for setting up all necessary tax accounts and forwarding all payroll taxes and penalties
17 to the appropriate government authorities.

18 64. Class Data. Within fifteen (15) days after entry of the Preliminary Approval Order,
19 Defendant shall provide the Class Data to the Settlement Administrator. The Settlement
20 Administrator will run a check of the Class Members' addresses against those on file with the
21 U.S. Postal Service's National Change of Address List. The Class Data provided to the Settlement
22 Administrator will not be provided to Class Counsel and it will remain confidential, it shall be
23 used solely to administer the Settlement, and it will not be used or disclosed to anyone, except as
24 required by applicable tax authorities, pursuant to Defendant's express written consent, or by
25 order of the Court.

26 65. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
27 Administrator to the Settlement Class Members, by first class mail, in English and Spanish, within
28 seven (7) calendar days following the Settlement Administrator's receipt of the Class Data. The

Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses of Settlement Class Members if any envelopes are returned.

66. Returned Notices. The Settlement Administrator will take steps to ensure that the Notice is received by all Settlement Class Members, including utilization of the National Change of Address Database maintained by the United States Postal Service to review the accuracy of and, if possible, update a mailing address. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, and/or Social Security number of the Class Member involved and will then perform a single re-mailing. In the event the procedures in this Paragraph are followed and the intended recipient of a Notice Packet still does not receive the Notice Packet, the Class Member shall be bound by all terms of the Settlement and any Judgment entered by the Court if the Settlement is approved by the Court. Notices will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The Notice shall be identical to the original Notice, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) days after the remailing of the Notice.

67. Presumption Regarding Receipt of Notice. It will be conclusively presumed that if an envelope has not been returned to the Settlement Administrator within thirty (30) days of the mailing that the Settlement Class Member received the Notice.

68. Disputes Regarding Class Data. Settlement Class Members are deemed to participate in the Settlement unless they opt-out. The Notice will inform Settlement Class Members of their estimated Individual Settlement Amount and the number of Workweeks Worked during the Class Period and during the PAGA Period. Settlement Class Members may dispute their Workweeks Worked if they feel they were employed more workweeks in the Class Period in California than Defendant's records show by timely submitting evidence to the Settlement Administrator.. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records. The Settlement Administrator will evaluate the evidence

submitted by the Settlement Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Workweeks Worked and estimated Individual Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. All disputes will be decided within ten (10) business days of the Notice Response Deadline. Settlement Class Members will have until the Notice Response Deadline to dispute Workweeks Worked, object, or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Workweeks Worked for any Settlement Class Member, the Settlement Administrator will then recalculate the Participating Class Members' Individual Settlement Amounts. However, in no event will Defendant be required to increase the Gross Settlement Amount.

69. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) calendar days prior to the final approval hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the Notice.

70. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Class Claims, and the ability to opt out or request exclusion from the Class Claims provisions of the Settlement. The Notice will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Class Claims provisions of the Settlement in accordance with the following guidelines:

(a) Requests for Exclusion from Participating Settlement Class. Any Settlement Class Member, other than Plaintiffs, may request to be excluded from the Participating Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state in words to this effect:

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE REYES V. VITAS HEALTHCARE LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT.

Any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address. Any such Request must be made in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in writing. The postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement with respect to Class Claims; and (iii) will not be bound by this Agreement, or the Judgment, with respect to the Class Claims.

(b) Binding Effect on Final Settlement Class Members. Except for those Settlement Class Members who exclude themselves in compliance with the procedures set forth above, all Settlement Class Members will: (i) be deemed to be Final Settlement Class Members for all purposes under this Agreement; (ii) be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided herein, be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement of Class Claims. Any Settlement Class Member, other than Plaintiffs, may object to the terms of this Agreement with respect to the Class Claims and may appear at the Final Approval Hearing and object whether or not they have filed a written objection as outlined herein. To object, a Settlement Class Member shall inform the Settlement Administrator, in writing, of his/her/their objection, which must be postmarked by the Notice Response Deadline at the address set forth in the Notice. Such objection shall include the full name, address, telephone number, dates of employment with Defendant of the Objecting Settlement Class Member, the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation

1 or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by
2 counsel, the name and address of his/her/their counsel. If any Objecting Settlement Class Member
3 wishes to speak at the Final Approval Hearing with respect to the Class Claims, that Objecting
4 Settlement Class Member's written submission should include a request to be heard, and the Court
5 will determine whether Objecting Settlement Class Members will be permitted to speak at the
6 hearing. The Settlement Administrator shall provide objections, if any, to Class Counsel and
7 Defense Counsel within three (3) business days of receipt, and the Settlement Administrator shall
8 attach the same to its declaration of due diligence it files with the Court prior to the Final Approval
9 Hearing. Any Objecting Settlement Class Member remains eligible to receive monetary
10 compensation from the Settlement. Plaintiffs and Defendant shall not be responsible for any fees,
11 costs, or expenses incurred by any Class Member and /or his/her/their counsel related to any
12 objections to the Settlement. Submitting an objection does not preserve the right to appeal a final
13 judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and
14 properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure
15 section 663. Settlement Class Members and Aggrieved Employees may not object to or opt out
16 of the Settlement with respect to the PAGA Claims. At no time will any of the Parties or their
17 counsel seek to solicit or otherwise encourage Class Members to submit written objections to the
18 Settlement or appeal from the Judgment. To the extent a timely Notice of Objection is withdrawn
19 before final approval, such an objection shall be treated as though the objection had not been
20 made.

21 (d) Failure to Object. Any Settlement Class Member who desires to object
22 with respect to the Class Claims but fails to submit a timely written objection waives any right to
23 object and will be foreclosed from making any objection to this Settlement. Any Settlement Class
24 Member who does not timely and properly become a party of record by intervening or filing a
25 motion to vacate the judgment waives any and all rights to appeal from the Judgment, including
26 all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate
27 judgment, motion for new trial, a motion under California Code of Civil Procedure section 473,
28 and extraordinary writs.

1 (e) Responses to Objections. Counsel for the Parties may file a response to any
2 objections submitted by Objecting Settlement Class Members at least five (5) court days before
3 the date of the Final Approval Hearing.

4 71. Settlement Class Members will have until the Notice Response Deadline to object
5 or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
6 Administrator shall disclose jointly to Class Counsel and Defendant's counsel what objections or
7 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class
8 Counsel or Defense Counsel.

9 72. Funding of the Settlement Amount. Defendant shall make a one-time deposit into
10 the QSF of the Settlement Amount, as described in Paragraph 47(a) that is necessary to make all
11 payments required under this Settlement, within thirty (30) days after the Effective Date.
12 Separately but on this same date (30 days after Effective Date), Defendant shall pay its share of
13 employer payroll taxes as calculated and directed by the Settlement Administrator and set forth
14 herein.

15 73. Distribution of Funds. No later than seven (7) calendar days after deposit of the
16 Settlement Amount into the QSF, the Settlement Administrator shall mail the payments to the
17 Participating Class Members, the payment for the attorneys' fees and costs to Class Counsel
18 (except as provided herein and/or pursuant to a distribution agreement), any Service Payment to
19 the Class Representatives, the payment to the LWDA for PAGA penalties, and will pay itself the
20 Settlement Administration Costs.

21 74. Deadline for Cashing Settlement Checks. Final Settlement Class Members shall
22 have 180 calendar days after mailing by the Settlement Administrator to cash their settlement
23 checks. If any Final Settlement Class Member's check is not cashed within that period, the check
24 will be void and a stop-payment will be issued. All unclaimed funds shall be sent to the California
25 Unclaimed Property Fund in the name of the class member. The Settlement Administrator shall
26 provide Class Counsel and Defense Counsel with an accounting of the unclaimed funds sent to
27 the California Unclaimed Property Fund. The release will be binding upon all Final Settlement
28 Class Members who do not cash their checks within the 180-day period. In the event that any

1 settlement check is returned to the Settlement Administrator within 180 days of mailing, the
2 Settlement Administrator will, within five (5) business days of receipt of the returned settlement
3 check, perform a skip trace to locate the individual. If a new address is located by these means,
4 the Administrator will have ten (10) business days to re-issue the check and will notify Defense
5 Counsel and Class Counsel that a re-issued check has been sent. Neither Defendant, Defense
6 Counsel, Class Counsel, Plaintiffs, nor the Settlement Administrator will have any liability for
7 lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized
8 negotiation of settlement checks. Without limiting the foregoing, in the event a Final Settlement
9 Class Member notifies the Settlement Administrator that they believe that a settlement check has
10 been lost or stolen, the Settlement Administrator shall immediately stop payment on such check.
11 If the check in question has not been negotiated prior to the stop payment order, the Settlement
12 Administrator will issue a replacement check.

13 75. No person shall have any claim against Defendant, Defendant's Counsel,
14 Plaintiffs, Class Counsel, or the Settlement Administrator based on mailings, distributions,
15 payments, or reports made in accordance with or pursuant to this Agreement. This provision does
16 not, however, prevent a Party from seeking enforcement of this Agreement.

17 76. Without prejudice to any other remedies, the Settlement Administrator shall agree
18 to be responsible for any breach of its obligations (whether committed by the Settlement
19 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from
20 and against all liabilities, claims, causes of action, costs and expenses (including legal fees and
21 expenses) arising out of any breach committed by the Settlement Administrator or its agents.

22 **H. Duties of the Parties Prior to the Court's Approval**

23 77. Within thirty (30) days of execution of this Agreement, Plaintiffs will move the
24 Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
25 accomplishing the following:

26 (a) Scheduling the Final Approval Hearing on the issue of whether this
27 Settlement should be finally approved as fair, reasonable, and adequate as to the Class Members
28 and a hearing on fees, costs, and the Service Payment;

(b) Approving as to form and content the proposed Notice;

(c) Directing the mailing of the Notice by first class mail to the Settlement Class Members;

(d) Preliminarily approving this Settlement; and

(e) Preliminarily certifying the class for purposes of this Settlement.

78. In conjunction with the Preliminary Approval Hearing, Plaintiffs will submit this Settlement Agreement, and will include the proposed Notice Packet, which will include the Notice of Class Action Settlement document and proposed Mailing Envelope.

79. In accordance with section 2699(1)(2) of the California Labor Code, Plaintiffs shall provide a copy of this Settlement Agreement to the LWDA on the same day that Plaintiffs file their motion for Preliminary Approval of this Settlement with the Court.

80. Modifications. In the event the Court refuses, on its first hearing, to approve this Agreement, the Parties shall cooperate in good faith to address any issues raised by the Court. If there are nonmaterial changes that do not affect the terms and non-class payments to Plaintiffs, Class Counsel and Defense Counsel shall have authority to modify this Agreement without additional signatures of the Parties.

I. Duties of the Parties Following Court's Final Approval

81. In connection with the Final Approval Hearing provided for in this Settlement Agreement, Class Counsel shall submit a proposed Final Approval Order:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of litigation costs and expenses, the Service Payment to the Class Representatives, the Williams Individual Claims Payment, and the payment to the Settlement Administrator for costs of administering the Settlement; and

(c) Entering judgment approving settlement, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties, permanent barring the Class Representatives from prosecuting any claims of

any nature against the Release Parties (as a product of the general release that each of them hereby provides, see Section 58, above) and permanently barring all Aggrieved Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties.

J. Voiding the Agreement

82. If the Court fails or refuses to issue the Final Approval Order or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of any Party.

83. If the Settlement is voided or fails for any reason, Plaintiffs and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay the Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

84. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant (50 percent) and Plaintiffs (collectively 50 percent), unless otherwise specified in this Agreement.

K. Other Terms

85. Full and Complete Defense. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released Claim. The Parties agree to the admissibility of this Agreement in any subsequent action involving the prosecution of any Released Claim.

86. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

87. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

1 88. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
2 accomplish the terms of this Settlement Agreement, including but not limited to, execution of
3 such documents and to take such other action as may reasonably be necessary to implement the
4 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best
5 efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that
6 may become necessary by order of the Court, or otherwise, to effectuate this Settlement
7 Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement
8 Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and
9 Defendant's Counsel, take all necessary steps to secure the Court's preliminary and final approval
10 of the settlement and the final entry of judgment.

11 89. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
12 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
13 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
14 cause of action, or rights released and discharged by this Settlement Agreement.

15 90. No Admission. Defendant denies any and all liability to Plaintiffs and/or any
16 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
17 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
18 compromise to avoid further substantial expense and the inconvenience and distraction of
19 protracted litigation. Defendant has considered the uncertainty and risks inherent in litigation, and
20 without conceding any infirmity in the defenses that they have asserted or could assert against
21 Plaintiffs, have determined that it is desirable and beneficial that Plaintiffs' claims be settled in
22 the manner and upon the terms and conditions set forth in this Agreement.

23 91. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
24 Order, nothing contained herein, nor the consummation of this Settlement Agreement, is to be
25 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
26 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
27 Settlement Agreement with the intention of avoiding further disputes and litigation with the
28 attendant inconvenience and expenses. This Settlement Agreement is a settlement document, and

1 it, along with all related documents such as the notices, and motions for preliminary and final
2 approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of
3 Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to
4 approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation for
5 class certification as part of this Settlement Agreement is for settlement purposes only and if, for
6 any reason the settlement is not approved, the stipulation will be of no force or effect.

7 92. Confidentiality: The Parties, Class Counsel and Defense Counsel agree to keep the
8 Settlement confidential through the Preliminary Approval Date. Thereafter, the Parties, Class
9 Counsel and Defense Counsel agree to make no comments to the media or otherwise publicize
10 the terms of the Settlement.

11 93. Invalidity of Any Provision. Before declaring any provision of this Settlement
12 Agreement invalid, the Parties request the Court to first attempt to construe the provision as valid
13 to the fullest extent possible consistent with applicable precedents so as to define all provisions
14 of this Settlement Agreement valid and enforceable. Notices. Unless otherwise specifically
15 provided herein, all notices, demands, or other communications given hereunder shall be in
16 writing and shall be deemed to have been duly given as of the third business day after mailing by
17 United States registered or certified mail, return receipt requested, addressed:

18 To the Settlement Class Members and Aggrieved Employees:

19
20 Mehrdad Bokhour
mehrdad@bokhourlaw.com
21 1901 Avenue of the Stars, Suite 450
22 Los Angeles, California 90067
Tel: (310) 975-1493; Fax: (310) 675-0861

23 Kevin Woodall
24 Woodall Law Offices
kevin@kwoodalllaw.com
25 100 Pine Street, Suite 1250
26 San Francisco, CA 94111
27 (415) 413-4629
28

Joshua Falakassa
josh@falakassalaw.com
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Tel: (818) 456-6168; Fax: (818) 505-0868

To Defendant:

Reed E. Schaper
schaper@hkemploymentlaw.com
Ferry E. Lopez
flopez@hkemploymentlaw.com
233 Wilshire Boulevard, Suite 600
Santa Monica, California 90401
Tel: (310) 255-0705; Fax: (310) 255-0986

Monte Grix
mgrix@hkemploymentlaw.com
Adam Maldonado
amaldonado@hkemploymentlaw.com
456 Montgomery Street, Suite 2200
San Francisco, California 94104
Tel: (415) 835-9016; Fax: (415) 834-0442

94. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or their counsel participated in the drafting of this Settlement Agreement. Plaintiffs and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

95. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

96. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto (except as provided herein, permitting Class Counsel and Defense Counsel to approve any such changes in writing), and approved by the Court. This Settlement Agreement may not be discharged except by performance in

1 accordance with its terms or by a writing signed by all of the Parties hereto.

2 97. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
3 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide
4 written notice to the other Party or Parties and allow an opportunity to cure the alleged
5 deficiencies, and Plaintiffs and Defendant agree to seek the help of the mediator identified in this
6 Agreement to resolve any dispute they are unable to resolve informally. During this period, the
7 Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal
8 action or other proceeding instituted by any person or entity other than Plaintiffs or Defendant.

9 98. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of
10 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure
11 section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action
12 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations
13 of this Agreement.

14 99. Enforceability. Pursuant to California Evidence Code section 1123(a) and (b), this
15 Agreement is intended by the Parties to be, and shall be, enforceable, binding and admissible in
16 a court of law.

17 100. Choice of Law. This Settlement Agreement shall be governed by and construed,
18 enforced, and administered in accordance with the laws of the State of California, without regard
19 to its conflicts-of-law rules.

20 101. Integration Clause. This Settlement Agreement contains the entire agreement
21 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
22 or contemporaneous agreements, understandings, representations, and statements, whether oral
23 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
24 hereunder may be waived except in writing.

25 102. Binding On Assigns. This Settlement Agreement shall be binding upon and inure
26 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
27 successors, and assigns.

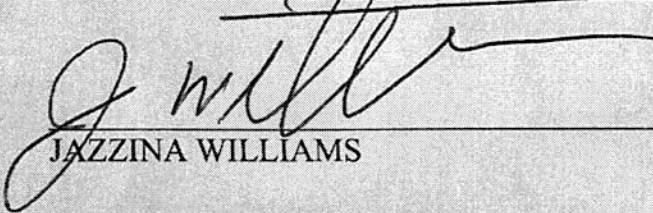
103. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Final Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the releases provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Final Settlement Class Member.

104. Counterparts. This Settlement Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

APPROVAL AND EXECUTION BY PARTIES.

Dated: February 19, 2023

CLASS REPRESENTATIVE:


JAZZINA WILLIAMS

Dated: February 19, 2023

CLASS REPRESENTATIVE:

ERLINDA REYES

Dated: February __, 2023

DEFENDANT:

VITAS HEALTHCARE CORPORATION OF
CALIFORNIA

By
Its

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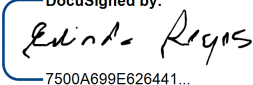
Dated: February __, 2023

CLASS REPRESENTATIVE:

JAZZINA WILLIAMS

Dated: February __, 2023
2/22/2023

CLASS REPRESENTATIVE:

DocuSigned by:

7500A699E626441...

ERLINDA REYES

Dated: February __, 2023

DEFENDANT:

**VITAS HEALTHCARE CORPORATION OF
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13 **APPROVAL AND EXECUTION BY PARTIES.**

14 Dated: February __, 2023

CLASS REPRESENTATIVE:

15
16 _____
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18 Dated: February __, 2023

CLASS REPRESENTATIVE:

19
20 _____
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22 Dated: February __, 2023

DEFENDANT:

23 **VITAS HEALTHCARE CORPORATION OF**
24 **CALIFORNIA**

25 
26 _____

27 By
28 Its

APPROVED AS TO FORM:

CLASS COUNSEL

Dated: February ___, 2023
2/22/2023

BOKHOUR LAW GROUP, P.C.

DocuSigned by:
Mehrdad Bokhour
D8D3643F271940F...

Mehrdad Bokhour
Attorneys for Plaintiffs

Dated: February ___, 2023
2/22/2023

FALAKASSA LAW, PC

DocuSigned by:
Joshua Falakassa
15A628B2C5A149C...

Joshua Falakassa
Attorneys for Plaintiffs

Dated: February ___, 2023

WOODALL LAW OFFICES

Kevin Woodall
Attorneys for Plaintiffs

Dated: February ___, 2023

DEFENDANT'S COUNSEL:

HIRSCHFELD KRAEMER LLP

Reed E. Schaper
Attorneys for Defendant,
Vitas Healthcare Corporation of California

1 **APPROVED AS TO FORM:**

2 **CLASS COUNSEL**

3
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BOKHOUR LAW GROUP, P.C.

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Mehrdad Bokhour
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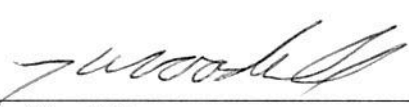
8
9 Dated: February ___, 2023

FALAKASSA LAW, PC

10
11 _____
Joshua Falakassa
Attorneys for Plaintiffs

12
13 Dated: February 19, 2023

WOODALL LAW OFFICES

14
15 
16 _____
Kevin Woodall
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17
18 Dated: February ___, 2023

DEFENDANT'S COUNSEL:

19 **HIRSCHFELD KRAEMER LLP**

20
21 _____
22 Reed E. Schaper
23 Attorneys for Defendant,
24 Vitas Healthcare Corporation of California
25
26
27
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1 **APPROVED AS TO FORM:**

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4 Dated: February ___, 2023

BOKHOUR LAW GROUP, P.C.

5
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Mehrddad Bokhour
Attorneys for Plaintiffs

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13 Dated: February ___, 2023

WOODALL LAW OFFICES

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Kevin Woodall
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DEFENDANT'S COUNSEL:

19 **HIRSCHFELD KRAEMER LLP**

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21

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