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Attorneys for Defendant
POINT LOMA REHABILITATION CENTER, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO - CENTRAL

ASHA SINGH, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

POINT LOMA REHABILITATION CENTER,
LLC; and Does 1 through 20, inclusive,

Defendant.

Case No. 37-2021-00028133-CU-OE-CTL

*Assigned for All Purposes to:
Judge Joel R. Wohlfel
Dept. C-73*

JOINT STIPULATION OF SETTLEMENT

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Civil Procedure, Rules of Court, and applicable case
3 law, that the Settlement of this Action shall be effectuated upon and subject to the following terms
4 and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or as
5 defined elsewhere in this Joint Stipulation of Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Asha Singh (“Named Plaintiff”)
7 and the Class Members and PAGA Group Members, on the one hand, and Defendant Point Loma
8 Rehabilitation Center, LLC (“Defendant”), on the other hand. Named Plaintiff and Defendant
9 collectively are referred to in this Agreement as “the Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the gross settlement amount of Two Hundred Thousand
12 Dollars (\$200,000.00) as provided in Section 3.06(a) below (“Gross Settlement Amount”) pursuant
13 to the terms and conditions of this Agreement and for the consideration set forth herein, including
14 but not limited to, a release of all claims by Plaintiff and the Class Members and PAGA Group
15 Members as set forth herein.

16 ARTICLE I

17 DEFINITIONS

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means the action described as follows: *Asha Singh, individually and on*
21 *behalf of all others similarly situated v. Point Loma Rehabilitation Center, LLC; and DOES I*
22 *through 20, inclusive,*” Case No. 37-2021-00028133-CU-OE-CTL, commenced on June 30, 2021,
23 with the operative First Amended Complaint filed on September 28, 2021, pending in the Superior
24 Court of the State of California for the County of San Diego as a putative class action and
25 representative action.

26 b. “Agreement” means this Joint Stipulation of Settlement, including the attached
27 Exhibit(s).

c. “Class” means all current and former non-exempt employees who are or were employed by Defendant in California at any time during the Class Period and did not sign arbitration agreements.

d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

Samuel A. Wong
Kashif Haque
Jessica L. Campbell
Steven A. McNicholl
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Irvine, California 92618
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e. “Class List” means a list based on Defendant’s business records that identifies each Class Member’s name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, start and end dates of active employment as a non-exempt employee of Defendant in the State of California, and the number of Qualifying Workweeks worked during the Class Period.

f. “Class Member(s)” means all members of the Class.

g. “Class Notice” means the Notice of Class and Representative Action Settlement in a form substantially similar to the form attached hereto as Exhibit A, in both English and Spanish, as approved by the Court, that will be mailed to Class Members’ last known addresses and which will provide Class Members with information regarding the Action and information regarding the Settlement of the Action.

h. “Class Period” means June 30, 2017 through December 2, 2022.

i. “Court” means the California Superior Court for the County of San Diego, where the Action is currently pending, or any other court assuming jurisdiction of the Settlement.

j. “Date of Finality” means ten (10) days after the Final Order becomes non-appealable. Non-appealable means that no party, including objectors, if any, has a right to appeal to, or seek reconsideration in, the California Court of Appeal, the California Supreme Court, or the U.S.

Supreme Court or, to the extent any appeals have been filed timely, they have been resolved, exhausted or settled, such that no further appeal activity may be taken.

k. “Defendant” means Defendant Point Loma Rehabilitation Center, LLC.

l. “Defense Counsel” means counsel for Defendant:

Julie A. Vogelzang
Lisa Hird Chung
Carl J. Lehman
SCHOR VOGELZANG & CHUNG LLP
2170 Fourth Avenue
San Diego, California 92101
Telephone: (619) 906-2400

m. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

n. “Enhancement Payment” means a monetary amount of up to Eight Thousand Five hundred Dollars (\$8,500.00) for the Named Plaintiff, subject to Court approval, in recognition of her effort and work in prosecuting the Action on behalf of Class Members, and for her general release of claims.

o. “Final Order Approving Settlement of Class Action” or “Final Order” means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement granting final approval of the settlement, issuing an associated entry of final judgment, and dismissing the Action with prejudice.

p. “Gross Settlement Amount” means Two Hundred Thousand Dollars and Zero Cents (\$200,000.00) to be paid by Defendant as provided by this Agreement to settle this Action. All Individual Settlement Payments, PAGA Settlement Amount, Settlement Administration Costs, attorney’s fees and costs, and Enhancement Payment, pursuant to Section 3.07(a) below, shall be paid out of the Gross Settlement Amount. The employer’s share of payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement Amount shall revert to Defendant.

1 q.

2 r. "Individual Settlement Payment(s)" means each Participating Class Member's
3 respective share of the Net Settlement Amount and each PAGA Group Member's respective share
4 of the Employee Portion of the PAGA Settlement Amount. Individual Settlement Payments will be
5 determined by the calculations provided in this Agreement.

6 s. "LWDA" means the State of California Labor and Workforce Development Agency.

7 t. "LWDA Payment" means 75% of the PAGA Settlement Amount, subject to Court
8 approval, will be paid to the LWDA pursuant to Section 3.06(e) of this Agreement, as provided for
9 below.

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

14 v. "Motion for Preliminary Approval" means Plaintiff's submission of a written motion,
15 including any evidence as may be required for the Court to grant preliminary approval of the
16 Settlement as required by Rule 3.769 of the California Rules of Court.

17 w. "Named Plaintiff" means Asha Singh.

18 x. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
19 Settlement Administration Costs, Class Counsels' attorney's fees and costs, Enhancement Payment,
20 and LWDA Payment pursuant to Section 3.06(a)-(e) below.

21 y. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
22 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
23 to Section 3.04(b) below.

24 z. "Notice Packet" means the Notice of Proposed Class Action Settlement in a form
25 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

26 aa. "Objection" means a Class Member's valid and timely written objection to the
27 Settlement Agreement. For an Objection to be valid, it must comply with the instruction in the Notice
28 Packet, attached hereto as **Exhibit A**.

1 bb. “PAGA” means the California Private Attorneys General Act of 2004, which is
2 codified in California Labor Code §§ 2698 *et seq.*

3 cc. “PAGA Group Members” means all Class Members employed by Defendant at any
4 time during the PAGA Period.

5 dd. “PAGA Pay Periods” means the number of pay periods PAGA Group Members
6 worked as a PAGA Group Member during the PAGA Period.

7 ee. “PAGA Period” means June 30, 2020, through December 2, 2022.

8 ff. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
9 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have
10 agreed that the PAGA Settlement Amount is Sixteen Thousand Dollars and Zero Cents (\$16,000),
11 subject to Court approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA
12 Payment, and the remaining 25% will be distributed pro rata to PAGA Group Members, as described
13 in this Agreement (“Employee Portion”). PAGA Group Members will receive payment from the
14 Employee Portion of the PAGA Settlement Amount regardless of whether they submit a Request for
15 Exclusion if the PAGA Settlement Amount is approved by the Court.

16 gg. “Participating Class Member(s)” is defined as a Class Member who does not timely
17 exclude themselves from the Settlement by submitting a valid and timely Request for Exclusion, and
18 will therefore receive their share of the Net Settlement Amount automatically without the need to
19 return a claim form. Each Participating Class Member will be paid their Individual Settlement
20 Payment.

21 hh.

22 ii. “Preliminary Approval Date” means the date the Court signs the order preliminarily
23 approving the Settlement embodied in this Agreement.

24 jj. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury
25 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
26 Administrator for the benefit of Participating Class Members.

27 kk. “Qualifying Workweeks” means the number of weeks that Class Members worked as
28 a Class Member during the Class Period.

1 ll. “Released Parties” means Defendant and its current, past, present, and/or future
2 subsidiaries, affiliates, directors, officers, managing agents, owners, employees, agents, principals,
3 heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, joint ventures,
4 agents, assigns, successors and predecessors in interest, parents and attorneys, if any, as well as any
5 individual or entity that could be jointly liable with Defendant or any other Released Party.

6 mm. “Request for Exclusion” means a valid and timely written statement submitted by a
7 Class Member requesting to be excluded from the Action. To be effective, the Request for Exclusion
8 must comply with the instructions in the Notice Packet, attached hereto as **Exhibit A**. To be effective,
9 the Request for Exclusion must be postmarked by the Response Deadline and received by the
10 Settlement Administrator. The Request for Exclusion shall not be effective as to the release of claims
11 arising under PAGA and shall not preclude the Class Member from receiving their share of the
12 Employee Portion of the PAGA Settlement Amount, to the extent the Class Member is a PAGA
13 Group Member.

14 nn. “Response Deadline” means the deadline by which Class Members must postmark or
15 fax to the Settlement Administrator Requests for Exclusion or written notices of Objection. The
16 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
17 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal
18 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
19 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
20 mailing.

21 oo. “Settlement Administration Costs” means all costs and fees incurred by the
22 Settlement Administrator in administration of the Settlement, including, but not limited to, those
23 associated with preparing, issuing, and mailing any and all Notice Packets to Class Members,
24 processing, reviewing, calculation and mailing of Individual Settlement Payments, generation of
25 Individual Settlement Payment checks and related tax reporting forms, preparing any tax returns and
26 any other filings required by any governmental taxing authority or agency, administration of
27 unclaimed checks, and generation of checks to Class Counsel for attorneys’ fees and costs, to Named
28 Plaintiff for her Enhancement Payment, and to the LWDA, preparing any other checks, notices,

1 reports, or filings to be prepared in the course of administering disbursements from the Net
2 Settlement Amount, and any other costs and fees incurred and/or charged by the Settlement
3 Administrator in connection with the execution of its duties under this Agreement. The Settlement
4 Administration Costs shall be paid from the Gross Settlement Amount.

5 pp. "Settlement Administrator" means ILYM Group, Inc., which the Parties have agreed
6 will be responsible for the administration of the Individual Settlement Payments to be made by
7 Defendant from the Gross Settlement Amount and related matters under this Agreement. The Parties
8 represent that they do not have any financial interest in the Settlement Administrator or otherwise
9 have a relationship with the Settlement Administrator that could create a conflict of interest.

10 **ARTICLE II**

11 **CONTINGENT NATURE OF THE AGREEMENT**

12 **Section 2.01: Stipulation of Class Certification for Settlement Purposes**

13 Because the Parties have stipulated to the certification of the Class with respect to all causes
14 of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and
15 final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis.
16 This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality
17 does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement
18 to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification
19 of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to
20 certification of the Class or that Plaintiff is an adequate class or PAGA representative for any purpose
21 other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if
22 Disposition of this Action is not effectuated, any certification of the Class as to Defendant will be
23 vacated and Named Plaintiff, Defendant, and the Class will be returned to their positions with respect
24 to the Action as if the Agreement had not been entered into. In the event that the Date of Finality
25 does not occur: (a) any Court orders preliminarily or finally approving certification of any class
26 contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited
27 thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the
28 fact that Defendant did not oppose the certification of a Class under this Agreement, or that the Court

preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class certification in the Action for any purpose or that Plaintiff is an adequate class or PAGA representative, if the Date of Finality does not occur.

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Agreement, and shall otherwise use their respective best efforts to obtain Court approval and implement this Agreement. If the Court does not grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a resolution, the Parties agree to seek the assistance of mediator Tripper Ortman to resolve the dispute.

ARTICLE III

PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT

The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

Section 3.01: Motion for Conditional Class Certification and Preliminary Approval

Named Plaintiff will bring a motion before the Court for an order conditionally certifying the Class to include all claims pled in the Action based on the preliminary approval of this Agreement.

Section 3.02: The Settlement Administrator

The Parties have chosen ILYM Group, Inc. to administer this Settlement and to act as the Settlement Administrator, including but not limited to distributing and responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the Individual Settlement Payment checks and distributing them to Participating Class Members, establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys' fees and costs, the Enhancement Payment check to Named Plaintiff, the LWDA Payment, and the employer payroll taxes to the appropriate taxing

1 authorities. The Settlement Administrator shall expressly agree to all of the terms and conditions of
2 this Agreement.

3 All Settlement Administration Costs, shall be paid to the Settlement Administrator from the
4 Gross Settlement Amount.

5 **Section 3.03: Notice to Class Members**

6 No later than ten (10) business days after the Preliminary Approval Date, Defendant will
7 provide the Settlement Administrator with the Class List.

8 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
9 Administrator will send Class Members, by first-class mail, at their last known address, the Court
10 approved Notice Packet. The Notice Packet will include (a) information regarding the nature of the
11 Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d) the total
12 number of Qualifying Workweeks each respective Class Member worked for Defendant during the
13 Class Period; (e) a calculation of the Class Member's approximate Individual Settlement Payment
14 and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the
15 Class Period and PAGA Period; (g) the deadlines by which the Class Member must postmark
16 Requests for Exclusion, Objections to the Settlement, or Qualifying Workweek disputes; (h) the
17 Released Claims, as set forth herein; and (j) the date for the Final Fairness and Approval hearing.
18 Class Members will have until the Response Deadline to postmark an Objection or Request for
19 Exclusion. Prior to the initial mailing, the Settlement Administrator will check all Class Member
20 addresses against the National Change of Address database and shall update any addresses before
21 mailing. The Settlement Administrator will skip trace and re-mail all returned, undelivered mail
22 within five (5) days of receiving notice that a Notice Packet was undeliverable. If a Class Member's
23 notice is re-mailed, the Class Member shall have fifteen (15) calendar days from the re-mailing, or
24 until the Response Deadline, whichever is later, in which to postmark an Objection or Request for
25 Exclusion. Class Members shall not be required to submit claim forms in order to receive a
26 proportional share of the Net Settlement Amount.

27 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
28 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose

1 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
2 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
3 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
4 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the Parties
5 that reasonable means be used to locate Class Members and that the Settlement Administrator be
6 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
7 Individual Settlement Payments to all Participating Class Members.

8 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
9 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
10 status report provided to the Parties.

11 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
12 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
13 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
14 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
15 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
16 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
17 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
18 procedures set forth in Section 3.06(f) below.

19 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
20 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
21 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
22 for and re-sending of any returned Notice Packets, as well as the number of valid and timely Requests
23 for Exclusion and Objections that the Settlement Administrator received.

24 **Section 3.04: Responses to Notice**

25 **a. Class Member Disputes**

26 If any Class Member disagrees with Defendant's records as to their Qualifying Workweeks
27 during the Class Period as reflected in the Notice Packet, the Class Member shall set forth in writing
28 the Qualifying Workweeks they claim to have worked during the Class Period and submit such

1 writing to the Settlement Administrator by the Response Deadline, along with any supporting
2 documentation. The Class Notice will also provide a method for the Class Member to challenge the
3 employment data on which their Individual Settlement Payment is based. The Settlement
4 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith
5 to resolve it. If the Parties are unable to resolve the dispute, the Court is the final arbiter of disputes.
6 Plaintiff will file with the Court all disputes submitted by Class Members, the evidence submitted,
7 and the resolution of those disputes.

8 **b. Requests for Exclusion from Class**

9 In order for any Class Member to validly exclude themselves from the Class and this Settlement
10 (*i.e.*, to validly opt out), a written Request for Exclusion must be signed by the Class Member or their
11 authorized representative, and must be sent to the Settlement Administrator, postmarked no later than
12 the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails the Notice
13 to the Class Member, whichever is later), or based on any other timeline or requirements ordered by
14 the Court. The Notice Packet shall contain instructions on how to validly exclude themselves from the
15 Class and this Settlement (*i.e.*, opt out), including the language to be used in a Request for Exclusion.
16 The date of the initial mailing of the Notice Packet, and the date the signed Request for Exclusion
17 was postmarked, shall be conclusively determined according to the records of the Settlement
18 Administrator. Any Class Member who timely and validly requests exclusion from the Class and this
19 Settlement will not be entitled to any Individual Settlement Payment, with the exception of the Class
20 Member's share of the Employee Portion of the PAGA Settlement Amount to the extent they are a
21 PAGA Group Member, will not be bound by the terms and conditions of this Agreement, except the
22 Class Member will be bound by the release of claims arising under PAGA to the extent the Class
23 Member is a PAGA Group Member, and will not have any right to object, appeal, or comment
24 thereon.

25 Any Class Member who fails to timely submit a valid Request for Exclusion shall
26 automatically be deemed a Class Member whose rights and claims with respect to the issues raised
27 in the Action are determined by the Court's Final Order Approving Settlement of Class Action, and
28

1 by the other rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by
2 the Action and/or released in this Agreement will be extinguished.

3 **c. Objections to Settlement**

4 For any Class Member to object to this Agreement, or any term of it, the person making the
5 objection must not submit a Request for Exclusion (*i.e.*, must not opt out), and must send to the
6 Settlement Administrator, postmarked no later than the Response Deadline (or fifteen (15) days after
7 the Settlement Administrator re-mails the Notice to the Class Member, whichever is later), a written
8 Objection, signed by the objecting Class Member or their attorney, along with all supporting papers,
9 if any. The date of the initial mailing of the Notice Packet, and the date the signed Objection was
10 postmarked, shall be conclusively determined according to the records of the Settlement
11 Administrator. The Settlement Administrator shall send any Objections it receives to Defense
12 Counsel and Class Counsel within three (3) business days of receipt. Class Members may also appear
13 at the Final Fairness and Approval Hearing to object. Class Counsel shall be responsible for filing
14 all Objections with the Court, prior to the Motion for Final Approval, or in such other matter as the
15 Court directs. The Court retains final authority with respect to the consideration and admissibility of
16 any Class Member Objections.

17 **d. Encouragement of Class Members**

18 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
19 indirectly, through any person, encourage or solicit any Class Member to exclude themselves from this
20 Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from Class
21 Members.

22 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

23 Defendant has estimated the number of Qualifying Workweeks as 5,275 during the Class
24 Period and the number of PAGA Pay Periods as 9,645. If the number Qualifying Workweeks exceed
25 5,803 or the number of PAGA Pay Periods exceed 10,610, the Gross Settlement Amount will increase
26 pro rata at a rate of \$37.91 per additional Qualifying Workweek or \$20.74 per additional PAGA Pay
27 Period, whichever is greater.
28

Section 3.05: Approval Hearings

a. Preliminary Approval Hearing

After execution of this Agreement, Plaintiff will file a Motion for Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Fairness and Approval hearing. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of the Settlement, along with the proposed Notice Packet attached as Exhibit A. Defendant shall not oppose the motion for preliminary approval of the Settlement so long as the motion and supporting papers are consistent with the terms of this Agreement. Class Counsel shall provide Defendant with a reasonable opportunity to review, and provide comments to, the motion for preliminary approval of the Settlement before the motion and supporting papers are filed with the Court.

b. Final Fairness and Approval Hearing

On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement and determine whether the Court should give it final approval, and (2) consider any Objections made and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a Proposed Final Order Approving Settlement of Class and Representative Action.

Section 3.06: Settlement Payment Procedures

a. Settlement Amount

In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount in the amount of Two Hundred Thousand Dollars (\$200,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e).

Within fifteen (15) calendar days after the Preliminary Approval Date, Defendant shall transfer \$50,000 ("Initial Amount"), as set forth herein, into a QSF established by the Settlement

Administrator to be deposited and distributed as set forth in this Agreement. Within fifteen (15) calendar days after the Date of Finality or by or on November 1, 2023 (which is twelve (12) months after the date of mediation), whichever is later, Defendant shall transfer \$150,000.00 ("Final Amount") into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administrator to be deposited and distributed as set forth in this Agreement. If the Settlement is not finally approved by the Court for any reason, the Initial Amount and the Final Amount will be returned to Defendant within ten (10) days of notice that the Court will not finally approve the Settlement, and any Settlement Administration Costs incurred will be split evenly and paid by each of the Parties to the Settlement Administrator.

Defendant shall transfer Defendant's share of employer-side payroll taxes, on or before fifteen (15) days after the Final Order, into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administrator to be deposited and distributed as set forth in this Agreement.

Within ten (10) business days after receiving Defendants' final payment, funding the Gross Settlement Amount in full, and employer-side payroll taxes, or the Date of Finality, whichever is later, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, Settlement Administration Costs, the Enhancement Payment, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes.

b. Payment of Attorneys' Fees and Costs

Class Counsel shall submit an application for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Sixty-Six Thousand Six Hundred and Sixty-Six Dollars and Sixty-Six Cents (\$66,666.66). Class Counsel shall submit an application for an award of reasonable costs. Such application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing. Defendant shall not object

1 to or oppose any such application in these amounts. Class Counsel shall serve Defendant with copies
2 of all documents submitted in support of their application for an award of attorneys' fees and costs.

3 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
4 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
5 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
6 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
7 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
8 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
9 will be reallocated to the Net Settlement Amount.

10 **c. Payment of Settlement Administration Costs**

11 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
12 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
13 Fifteen Thousand Dollars (\$15,000.00).

14 **d. Payment of Enhancement Payment to Named Plaintiff**

15 Subject to Court approval, the Named Plaintiff shall receive an Enhancement Payment of up
16 to Eight Thousand Five Hundred Dollars (\$8,500.00), the request for which Defendant will not object
17 to or oppose. The Enhancement Payment shall be paid out of the Gross Settlement Amount and shall
18 not constitute payment to any Participating Class Member(s) other than Named Plaintiff. To the
19 extent that the Court approves less than the amount of Enhancement Payment that Class Counsel
20 requests, the difference between the requested and awarded amounts will be reallocated to the Net
21 Settlement Amount.

22 Because it is the intent of the Parties that the Enhancement Payment represent payment to
23 Named Plaintiff for her service to the Class Members, and not wages, the Settlement Administrator
24 will not withhold any taxes from the Enhancement Payment. The Enhancement Payment will be
25 reported on a Form 1099, which the Settlement Administrator will provide to Named Plaintiff and to
26 the pertinent taxing authorities as required by law.

e. Payment to the Labor and Workforce Development Agency

In consideration of claims made under PAGA, Class Counsel will request that the Court approve allocation of Sixteen Thousand Dollars (\$16,000) of the Gross Settlement Amount to the PAGA Settlement Amount. Seventy-five percent (75%) of this payment (\$12,000.00) will be paid to the California Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) of this payment (\$4,000.00) will be paid to the Net Settlement Amount for distribution to PAGA Group Members on a pro-rata basis based on the total number of PAGA Pay Periods worked by each PAGA Group Member during the PAGA Period. Defendant will not oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount. The Court's adjustment, if any, of the amount allocated to the PAGA claim in the Action, will not invalidate this Agreement.

f. Payment of Individual Settlement Payments to Participating Class Members

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount, with the exception of the Employee Portion of the PAGA Settlement Amount, shall be divided between all Participating Class Members in proportion to the number of individual Qualifying Workweeks for each Class Member. To calculate the minimum amount each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement Amount, with the exception of the Employee Portion of the PAGA Settlement Amount, will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and then allocated on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class Member's approximate Individual Settlement Payment amount will be included in their Notice Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member.

Each Individual Settlement Payment, with the exception of the PAGA Group Members' shares of the Employee Portion of the PAGA Settlement Amount, will represent wages and penalties allocated using the following formula: 1/3 allocated to wages and 2/3 allocated to penalties and

1 interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from
2 an employee's wages and all other authorized and required withholdings and shall be reported by W-
3 2 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement
4 Amount. 100% of the PAGA Group Members' shares of the Employee Portion of the PAGA
5 Settlement Amount will be allocated to penalties, and not wages. For any PAGA Group Member
6 who submits a timely and valid Request for Exclusion, 100% of the Individual Settlement Payment
7 to that individual shall be allocated as penalties. The amounts paid as penalties and interest shall be
8 subject to all authorized and required withholdings other than the tax withholdings customarily made
9 from employees' wages and shall be reported by IRS 1099 forms.

10 No later than ten (10) business days after receiving the Gross Settlement Amount and payroll
11 taxes from Defendant, or the Date of Finality, whichever is later, the Settlement Administrator shall
12 prepare and mail the checks for the Individual Settlement Payments to Participating Class Members.
13 Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be
14 reduced by applicable employer and employee tax withholdings, and the Settlement Administrator
15 will issue a Form W-2 for the wage portion of the Individual Settlement Payments. The Settlement
16 Administrator will issue a Form 1099 to the extent required by law for the interest and penalty
17 portions of the Individual Settlement Payments. Participating Class Members shall have 180 days
18 from the date their Individual Settlement Payment checks are dated to cash their Settlement checks.
19 Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the
20 uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the
21 Class Member for whom the funds are designated.

22 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
23 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
24 a mass search on LexisNexis or a comparable database based on set criteria and, if another address
25 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the
26 Settlement Administrator is unable to obtain a valid mailing address through this process, the
27 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
28 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

1 **g. Default on Payment.**

2 In the event Defendant makes a late payment or does not pay any portion of the Gross
3 Settlement Amount, it shall be considered a default. In the event Defendant fails to make any payment
4 on the date it is due, under Section 3.06(a), the Settlement Administrator will provide notice to Class
5 Counsel and Defendant's counsel within three (3) business days of the missed payment. Thereafter,
6 Defendant will have seven (7) days to cure the default and tender payment to the Settlement
7 Administrator. In the event Defendant fails to cure the default within the times set forth herein,
8 Named Plaintiff may elect to enter judgment against Defendant, on an ex parte basis, for the balance
9 of the unpaid Gross Settlement Amount to date, and Named Plaintiff will be entitled to recover
10 interest at ten percent (10%) per year from the due date for such payment and reasonable attorneys'
11 fees and costs.

12 **h. No Credit Toward Benefit Plans.**

13 The Individual Settlement Payments made to Participating Class Members under this
14 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
15 calculate any additional benefits under any benefit plans to which any Class Members may be
16 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
17 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
18 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
19 Members may be entitled under any benefit plans.

20 **ARTICLE IV**

21 **LIMITATIONS ON USE OF THIS SETTLEMENT**

22 **Section 4.01: No Admission**

23 Defendant disputes all the allegations in the Action and disputes that, but for this Settlement,
24 a Class should not have been certified in the Action. This Agreement is entered into solely for the
25 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
26 construed as an admission of liability or wrongdoing by Defendant or any named defendants.
27
28

1 **Section 4.02: Non-Evidentiary Use**

2 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
3 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
4 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
5 including but not limited to, evidence of a presumption, concession, indication, or admission by any
6 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
7 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
8 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
9 Agreement or for Defendant to establish that a Class Member has resolved any of their claims
10 released through this Agreement.

11 **Section 4.03: Nullification**

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

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

ARTICLE V

RELEASES

Section 5.01: Released Claims by Class Members

Upon the date Defendant transfers the Gross Settlement Amount, Named Plaintiff and Participating Class Members who do not opt out of the Settlement, on behalf of themselves, their heirs, spouses, executors, administrators, attorneys, agents and assigns, fully and finally release and discharge the Released Parties from any and all claims, rights, demands, liabilities, and causes of action of any nature or description arising from the facts pleaded in the operative complaint in the Action, the related LWDA notice, and mediation discussions, or as reasonably could have been pleaded, including any such claims that were litigated in the Action against Defendant or could reasonably have been litigated in the Action against Defendant which arose during the Class Period, as well as any and all damages, restitution, disgorgement, civil penalties, statutory penalties, interest or attorneys' fees resulting therefrom ("Released Claims"). Released Claims include but are not limited to claims for (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide compliant meal periods or appropriately pay meal premiums owed, (4) failure to authorize or permit compliant rest periods or appropriately pay rest premiums owed, (5) failure to reimburse business expenses, (6) failure to furnish accurate itemized wage statements, and wage statement violations, (7) failure to provide paid sick leave, (8) failure to maintain accurate and complete records, (9) failure to pay all wages owed throughout employment, (10) failure to pay accrued vacation pay, (11) off-the-clock work, (12) failure to pay wages upon separation of employment and within the required time, (13) violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding claims, and (14) any applicable derivative statutory penalties.

1 **Section 5.02: Release of PAGA Claims**

2 Upon the date of funding the Gross Settlement Amount, the State of California and PAGA
3 Group Members release the Released Parties from all claims for civil penalties that were alleged or
4 could have reasonably been alleged based on the facts alleged in Named Plaintiff's notice(s) sent to
5 the LWDA, in the operative complaint, and during mediation discussions, which arose during the
6 PAGA Period, regardless of whether PAGA Group Members opt out of the Class Settlement.

7 **Section 5.03: Named Plaintiffs' Release of Unknown Claims**

8 Upon the date of funding the Gross Settlement Amount, Named Plaintiff waives, releases,
9 acquits, and forever discharges the Released Parties from any and all claims, actions, charges,
10 complaints, grievances, demands, rights, liabilities, and causes of action, of any nature arising from,
11 relating to, or in connection with any act or omission by or on the part of any of the Released Parties
12 committed or omitted prior to the execution hereof, whether known or unknown, asserted or that
13 might have been asserted, which exist or may exist as of the Parties' execution of this Agreement.
14 This Release excludes any current and/or future claims that are unwaivable as a matter of law, such
15 as claims for unemployment or workers compensation.

16 Section 1542 of the California Civil Code provides as follows:

17 *"A general release does not extend to claims that the creditor or releasing*
18 *party does not know or suspect to exist in his or her favor at the time of*
19 *executing the release and that, if known by him or her, would have*
20 *materially affected his or her settlement with the debtor or released party."*

21 Named Plaintiff's general release provided herein is made with an express waiver and
22 relinquishment of any claim, right, or benefit under California Civil Code § 1542, including Labor
23 Code section 2802.

24 **ARTICLE VI**

25 **MISCELLANEOUS PROVISIONS**

26 **Section 6.01: Amendments or Modification**

27 The terms and provisions of this Agreement may be amended or modified only by an express
28 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

1 **Section 6.02: Assignment**

2 None of the rights, commitments, or obligations recognized under this Agreement may be
3 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
4 consent of each other Party and their respective counsel. The representations, warranties, covenants,
5 and agreements contained in this Agreement are for the sole benefit of the Parties under this
6 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

7 **Section 6.03: Governing Law**

8 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
9 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
10 of laws.

11 **Section 6.04: Entire Agreement**

12 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
13 contains the entire understanding of the Parties with respect to the subject matter contained herein.
14 In case of any conflict between text contained in Articles I through VI of this Agreement and text
15 contained in the Exhibit to this Agreement, the former (*i.e.*, Articles I through VI) shall be
16 controlling, unless the Exhibit are changed by or in response to a Court order. There are no
17 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
18 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
19 supersedes all prior agreements and understandings among the Parties with respect to the settlement
20 of the Action, including correspondence between Class Counsel and Defense Counsel,
21 memorandums of understanding, and drafts of prior agreements or proposals.

22 **Section 6.05: Waiver of Compliance**

23 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
24 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
25 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
26 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
27 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
28 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

1 **Section 6.06: Counterparts and Fax/PDF Signatures**

2 This Agreement, and any amendments hereto, may be executed in any number of counterparts
3 and any Party and/or their respective counsel may execute any such counterpart, each of which when
4 executed and delivered shall be deemed to be an original. All counterparts taken together shall
5 constitute one instrument. A fax or electronic or PDF signature on this Agreement shall be as valid
6 as an original signature.

7 **Section 6.07: Meet and Confer Regarding Disputes**

8 Should any dispute arise among the Parties or their respective counsel regarding the
9 implementation or interpretation of this Agreement, a representative of Class Counsel and a
10 representative of Defense Counsel shall meet and confer, in person or via telephone, in an attempt to
11 resolve such disputes prior to submitting such disputes to the Court.

12 **Section 6.08: Agreement Binding on Successors**

13 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
14 of each of the Parties.

15 **Section 6.09: Cooperation in Drafting**

16 The Parties have cooperated in the negotiation and preparation of this Agreement. This
17 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
18 was the drafter or participated in the drafting of this Agreement.

19 **Section 6.10: Fair and Reasonable Settlement**

20 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
21 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
22 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
23 further believe that the Settlement is and is consistent with public policy, and fully complies with
24 applicable law.

25 **Section 6.11: Headings**

26 The descriptive heading of any section or paragraph of this Agreement is inserted for
27 convenience of reference only and does not constitute a part of this Agreement and shall not be
28 considered in interpreting this Agreement.

1 **Section 6.12: Notice**

2 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
3 communications under this Agreement must be in writing and addressed as follows:

4 *To Named Plaintiff and the Class:*

5 Samuel A. Wong
6 Kashif Haque
7 Jessica L. Campbell
8 Steven A. McNicholl
9 AEGIS LAW FIRM, PC
10 9811 Irvine Center Drive, Suite 100
11 Irvine, California 92618
12 Telephone: (949) 379-6250
13 Facsimile: (949) 379-6251

14 And

15 *To Defendant:*

16 Julie A. Vogelzang
17 Lisa Hird Chung
18 Carl J. Lehman
19 SCHOR VOGELZANG & CHUNG LLP
20 2170 Fourth Avenue
21 San Diego, California 92101
22 Telephone: (619) 906-2400

23 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

24 To the extent consistent with class action procedure, this Agreement shall be enforceable by
25 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
26 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
27 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
28 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
of the Parties institutes any legal action or other proceeding against any other Party or Parties to
enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover

1 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
2 fees incurred in connection with any enforcement actions.

3 **Section 6.14: Mutual Full Cooperation**

4 The Parties agree fully to cooperate with each other to accomplish the terms of this
5 Agreement, including but not limited to the execution of such documents, and the taking of such
6 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
7 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its
8 terms. In the event the Parties are unable to reach agreement on the form or content of any document
9 needed to implement the Settlement, or on any supplemental provisions that may become necessary
10 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

11 **Section 6.15: Authorization to Act**

12 Class Counsel warrants and represents that they are authorized by Named Plaintiff, and
13 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
14 required to effectuate the terms of this Agreement, except for signing documents, including but not
15 limited to this Agreement, that are required to be signed by the Parties themselves. Defendant
16 represents and warrants that the individual executing this Agreement on its behalf has the full right,
17 power, and authority to enter into this Agreement and to carry out the transactions contemplated
18 herein.

19 **Section 6.16: No Reliance on Representations**

20 The Parties have made such investigation of the facts and the law pertaining to the matters
21 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
22 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
23 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
24 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
25 to any other matters. No representations, warranties, or inducements, except as expressly set forth
26 herein, have been made to any party concerning this Agreement.

27 **Section 6.17: Confidentiality**

28 **a. Confidentiality Preceding Preliminary Approval**

1 The Parties and their counsel agree that they shall not issue any press releases, initiate any
2 contact with the press, respond to any press inquiry, or have any communication with the press about
3 the fact, amount or terms of the Settlement.

4 **b. Named Plaintiff's Confidentiality Agreement**

5 Named Plaintiff specifically agrees not to discuss any issues related to the settlement of this
6 Action or the claims against Defendant. The Parties agree that any breach of confidentiality as
7 described in this Agreement would result in serious and lasting harm to Defendant and/or the
8 Released Parties, but which would be difficult or impossible to quantify. Accordingly, the Parties
9 agree that in the event of such a breach by Plaintiff, Plaintiff will pay to Defendant as liquidated
10 damages the amount of Two Thousand Dollars (\$2,000.00) per breach up to a maximum of Four
11 Thousand Dollars (\$4,000).

12 **Section 6.18: Force Majeure**

13 Neither Party shall be in breach of this Agreement nor liable for delay in performing, or
14 failure to perform, any of its or her obligations under this Agreement if such delay or failure results
15 from events, circumstances or causes beyond the Party's reasonable control, including without
16 limitation acts of God or natural disaster, epidemic or pandemic, chemical or biological
17 contamination, wars, strikes, riots, acts of domestic or international terrorism, or any other event
18 beyond a Party's reasonable control that renders such Party's performance impossible. The affected
19 Party shall provide written notice to the other Party of the force majeure event and its impact. In
20 such circumstances the time for performance shall be extended, if possible, by a period equal to the
21 period during which performance of the obligation has been delayed or failed to be performed.

22
23 **Section 6.19: Use and Return of Documents and Data**

24 All originals, copies, and summaries of documents and data provided to Class Counsel by
25 Defendant in connection with the mediation or other settlement negotiations in this matter may be
26 used only with respect to this Settlement, and for no other purpose, and may not be used in any way
27 that violates any existing contractual agreement, statute, or rule. Upon request at least sixty (60) days
28 after the Date of Finality, Class Counsel will return or destroy all such documents and data. Upon

1 written request from Defendant, Class Counsel will confirm in writing to Defendant the destruction
2 of all such documents and data.

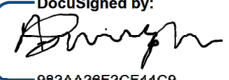
3 **EXECUTION BY PARTIES AND COUNSEL**

4 The Parties and their counsel hereby execute this Agreement.

5 Dated: 4/11/2023 | 12:59 PM PDT

6 **ASHA SINGH**

7 By: _____
8 Asha Singh

DocuSigned by:

982AA26F2CF44C9...

9
10 Dated:

11 **POINT LOMA REHABILITATION**
12 **CENTER, LLC**

13 By: _____
14 Dina Mookini

15 APPROVED AS TO FORM ONLY:

16
17 Dated: 5/30/2023

18 **AEGIS LAW FIRM**

19 By: Steven McNicholl
20 Jessica L. Campbell
21 Steven A. McNicholl
22 Attorneys for Named Plaintiff Asha Singh

23
24 Dated: _____

25 **SCHOR VOGELZANG & CHUNG LLP**

26 By: _____
27 Julie A. Vogelzang
28 Lisa Hird Chung
Carl J. Lehman
Attorneys for Defendant, Point Loma
Rehabilitation Center, LLC

1 written request from Defendant, Class Counsel will confirm in writing to Defendant the destruction
2 of all such documents and data.

3 **EXECUTION BY PARTIES AND COUNSEL**

4 The Parties and their counsel hereby execute this Agreement.

5 Dated:

6 **ASHA SINGH**

7 By: _____

8 Asha Singh

9
10 Dated:

5/2/23

11 **POINT LOMA REHABILITATION
12 CENTER, LLC**

13 By: _____

14 Dina Mookini

15 **APPROVED AS TO FORM ONLY:**

16 **AEGIS LAW FIRM**

17 Dated: _____

18 By: _____

19 Jessica L. Campbell

20 Steven A. McNicholl

21 Attorneys for Named Plaintiff Asha Singh

22 Dated: _____

May 2, 2023

23 **SCHOR VOGELZANG & CHUNG LLP**

24 By: _____

25 Julie A. Vogelzang

26 Lisa Hird Chung

27 Carl J. Lehman

28 Attorneys for Defendant, Point Loma
Rehabilitation Center, LLC

EXHIBIT A

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

Asha Singh v. Point Loma Rehabilitation Center, LLC, et al.
San Diego County Superior Court, Case No. 37-2021-00028133-CU-OE-CTL

If you worked for Point Loma Rehabilitation Center, LLC as a non-exempt employee, in California at any time from June 30, 2017 through December 2, 2022, the settlement of this class action lawsuit may affect your rights.

This is a court-authorized notice. It is not a solicitation from a lawyer.

- A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Asha Singh v. Point Loma Rehabilitation Center, LLC, et al.*, Case No. 37-2021-00028133 (San Diego County Superior Court) (the “Lawsuit”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the Lawsuit, and to inform you of your rights and options in connection with the Lawsuit and the Settlement.
- The Court has preliminarily approved a class action settlement with Defendant Point Loma Rehabilitation Center, LLC (“Defendant”), which will affect all non-exempt employees who worked for Defendant in California at any time from June 30, 2017 through December 2, 2022 (the “Class”).
- If the Court grants final approval of the Settlement, there may be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u>	Stay in this Lawsuit. Receive a payment. Give up certain rights. By doing nothing, you become part of the Class and will be entitled to a settlement award as detailed below. But, you will not be able to bring your own lawsuit against Defendant for violations that relate to the claims brought in this Lawsuit.
OBJECT TO THE SETTLEMENT	Stay in this Lawsuit. Object. Receive a payment. Give up certain rights. If you object to the settlement, you will remain a member of the Class. If the Court approves the settlement, you will be entitled to collect a settlement award and be bound by the terms of the settlement in the same way as Class Members who do not object.
ASK TO BE EXCLUDED	Get out of this Lawsuit. Receive no payment from the class settlement. Keep your rights. If you ask to be excluded from the Settlement, you will not receive any payment from the settlement award. But, you keep your right to sue Defendant separately for the legal claims raised in this Lawsuit, except as to the claim under the California Private Attorneys General Act (“PAGA”). As a result, you may receive no payment at all. At most, you will receive a very small payment for resolution of the PAGA claim if you a PAGA Group Member, which is a subset of the Class.

- **Regardless of the option you choose, you will not be retaliated against.**
- Your options are explained in this notice. To object to the settlement or to ask to be excluded, you must act before [REDACTED].
- **Any questions?** Read on or contact Class Counsel or the Settlement Administrator listed below.

BASIC INFORMATION

1. Why did I get this notice?

Defendant's records show that you worked for Defendant as a non-exempt employee in California at some point between June 30, 2017 and December 2, 2022.

The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement may be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this Settlement. Judge Joel R. Wohlfeil of the Superior Court of the State of California, County of San Diego, is overseeing this lawsuit.

2. What is this lawsuit about?

In this Lawsuit, Plaintiff Ash Singh ("Plaintiff") claims that Defendant: (1) failed to pay minimum wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to permit rest breaks; (5) failed to reimburse business expenses; (6) failed to provide accurate itemized wage statements; (7) failed to pay all wages due upon separation of employment and within the required time; (8) violated California's Unfair Competition laws; and (9) that these violations entitle Plaintiff to recover civil penalties on behalf of the State of California under the "Private Attorneys General Act", Labor Code § 2698 et. seq ("PAGA").

Throughout the litigation, Defendant has denied—and continue to deny—the factual and legal allegations in the Lawsuit. Defendant denies any wrongdoing and asserts that its conduct at all times complied with the law. However, Defendant has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation.

3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the "Class Representative" sues on behalf of other people who may have similar claims. The people together are referred to as a "Class" or "Class Members." The person who is the Class Representative is also called the plaintiff. The company being sued is called the defendant. In class action litigation, a Court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

This class action also includes a PAGA claim, where the Plaintiff is attempting to recover civil penalties on behalf of the State of California. In a PAGA action, the State receives 75% of any recovered civil penalties, and the employees receive 25%. This Settlement will resolve all claims by the State for civil penalties arising from the claims made by Plaintiff in the Lawsuit during the period of June 30, 2020 through December 2, 2022 (the "PAGA Period").

4. Why is this Lawsuit a class action?

For settlement purposes, Plaintiff and Defendant agreed that this case can proceed as a class action and have agreed to ask the Court to approve the class action Settlement. The Court has not ruled on the merits of the claims in the Lawsuit.

5. What are the terms of the proposed Settlement?

The major terms of the settlement are as follows:

1. Defendant has agreed to pay \$200,000 to settle the claims in this Lawsuit. This amount is also known as the “Gross Settlement Amount.”
2. Plaintiff has agreed to release all of his claims in this this Lawsuit against Defendant.
3. Plaintiff seeks the following deductions from the \$200,000 Gross Settlement Amount:
 - a. Up to one-third (1/3) of the Gross Settlement Amount (which is currently equal to \$66,666.66) for Class Counsel’s attorneys’ fees.
 - b. Up to \$25,000.00 for reimbursement of Class Counsel’s litigation costs.
 - c. An Incentive Award of up to \$8,500.00 to the Plaintiff for filing the Lawsuit, performing work in connection with the Lawsuit, and the risks associated with filing the Lawsuit.
 - d. Up to \$15,000.00 to cover the costs of the Settlement Administrator.
 - e. A PAGA Settlement Amount of up to \$16,000 for the release of PAGA claims. The PAGA Settlement Amount shall be allocated 75% (or \$12,000.00) to the California Labor and Workforce Development Agency and 25% (or \$4,000.00) to the non-exempt employees that worked for Defendant in California at any time during the PAGA Period (“PAGA Group Members”).

If the Court approves these requested deductions, there will be approximately \$80,834 remaining. The remaining funds will be referred to as the “Net Settlement Amount.” The Net Settlement Amount will be distributed to Class Members who do not request exclusion according to the number of weeks they worked for Defendant in California during the Class Period. This is referred to as the “Individual Settlement Payment.”

PAGA Settlement Amount. 25% of the PAGA Settlement Amount (or \$4,000.00) will be paid to PAGA Group Members based on the number of pay periods they worked for Defendant in California during the PAGA Period. If you are a PAGA Group Member, you will receive a pro rata share of the PAGA Group Payment regardless of whether you opt-out of the class settlement. This is referred to as the “Individual PAGA Payment.”

Check Cashing Period. If a settlement check remains uncashed after 180 days from the date it is issued, the check will become void and the amount of the uncashed check will be paid to Meals on Wheels California, Inc. who will serve as the *cy pres* recipient pursuant to California Code of Civil Procedure section 384.

WHO IS IN THE CLASS?

6. Am I part of this Class?

The “Class” includes all non-exempt employees employed by Defendant at any time from June 30, 2017 and December 2, 2022 (the “Class Period”).

7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting ILYM Group, Inc., the “Settlement Administrator”, at the designated phone number for this matter at (888) 250-6810 or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 19.

8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Defendant, the total number of pay periods you worked in California for Defendant as a non-exempt employee during the Class Period is [REDACTED]. The total number of pay periods you worked in California for Defendant as a non-exempt employee during the PAGA Period is [REDACTED].

Based on information provided above, anticipated court-approved deductions, and preliminary calculations of Qualified Workweeks, it is estimated your Individual Settlement Payment will be \$[REDACTED], less applicable taxes and withholdings and your Individual PAGA Settlement Payment will be \$[REDACTED].

You do not need to do anything further to receive your Individual Settlement Payment and Individual PAGA Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

Disputing Your Payment Amount

If you believe your total pay periods worked during the Class Period and/or total pay periods worked during the PAGA Period shown above are not correct, you may contact the Settlement Administrator indicating what you believe is correct no later than [REDACTED]. You should send any documents or other information that supports your belief that the number of weeks set forth above is incorrect. The Settlement Administrator will attempt to resolve any dispute based upon Defendant’s records and any information you provide. Any dispute not resolved by the Settlement Administrator will be resolved by the Court.

9. What rights am I releasing if I participate in the Settlement?

Upon the date Defendant transfers the Gross Settlement Amount, Named Plaintiff and Participating Class Members irrevocably and unconditionally fully release and forever discharge the Released Parties from any and all the Released Claims during the Class Period.

“Released Claims” means any and all claims alleged in Named Plaintiffs’ Operative Complaint, during the Class Period, including but not limited to (1) failure to pay minimum wages (2) failure to pay overtime wages (3) failure to provide meal periods (4) failure to authorize or permit rest periods (5) failure to reimburse business expenses (6) failure to furnish accurate itemized wage statements wage statement violations (7) failure to pay wages upon separation of employment and within the required time and (8) violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding claims

“Released Parties” means Defendant.

Upon the date Defendant transfer the Gross Settlement Amount, the State of California and PAGA Group Members release the Released Parties from all claims exhausted in Plaintiff’s notice(s) sent to the LWDA and alleged in the operative complaint, which arose during the PAGA Period, regardless of whether PAGA Group Members opt out of the Class Settlement.

10. How do I object to the Settlement?

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, you must not opt-out). To object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. Your written objection must set forth the grounds for your objection and be signed and dated, along with any supporting documents. Any written objection must be mailed to the Settlement Administrator no later than [REDACTED]. You can also appear at the final approval hearing. The information for the hearing is included in Section 17 of this notice.

11. Why would I ask to be excluded?

You have the right to exclude yourself from the Class (and the class settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you will not receive any money or benefits from the class settlement. However, if you opt out, you may then be able to sue or continue to sue Defendant for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's ruling in this Lawsuit except for the release by PAGA Group Members. Whether or not you submit a Request for Exclusion, if you are a PAGA Group Member, you will still receive your portion of the PAGA Group Payment.

12. How do I ask to be excluded from the Class?

If you are a Class Member and would like to exclude yourself from the Class (“opt-out”), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. Your written statement should

include your full name and address, and say something like, “I am a member of the class in the case of *Asha Singh v. Point Loma Rehabilitation Center, LLC, et al.*, San Diego Superior Court, Case No. 37-2021-00028133, and I wish to exclude myself from the settlement, knowing I will not get payment as a class member and I will not release my claims as a class member.” The statement must be signed by you or your authorized representative and must be postmarked on or before [REDACTED]. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted.

Any class member who fails to submit a valid and timely request for exclusion will be bound by all terms of the settlement and any final disposition entered in this Class Action if the Settlement is approved by the Court. However, Class Members cannot opt out of releasing PAGA claims, as those claims technically belong to the State of California and Plaintiff has agreed to release those claims acting as a proxy for the State.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Class Counsel:

Kashif Haque
Samuel A. Wong
Jessica L. Campbell
Steven A. McNicholl
AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
smcnicholl@aegislawfirm.com

The Court has preliminarily decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm’s attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at www.aegislawfirm.com.

14. How will the lawyers be paid?

As part of the Settlement, Class Counsel has requested one-third of the Gross Settlement Amount (currently equal to \$66,666.66) in attorneys' fees, plus costs not to exceed \$25,000.00, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel’s fees and costs from your Individual Settlement Payment.

15. How will the Plaintiff be paid?

As part of the Settlement, Class Counsel has requested an incentive award of up to \$8,500 to be paid to the Plaintiff for his efforts in this matter, while serving as Class Representative and taking on the burden and risks of litigation.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

16. Who is handling the Settlement Administration process?

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781
Phone: 888.250.6810

17. When is the Final Fairness and Approval Hearing and do I have to attend?

The Final Fairness and Approval Hearing has been set for [REDACTED], at [REDACTED], in Department C-73 of the Superior Court of California, County of San Diego, located at 330 W Broadway, San Diego, California 92101. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class.

The Final Fairness and Approval Hearing date and/or location is subject to change. To check if the hearing has changed, please go to <https://roa.sdcourtca.gov/roa>. Type in the “Legacy Case Number” box “37-2021-00028133-CU-OE-CTL” and then click “Search.” The information for the Final Fairness and Approval Hearing will be listed under “FUTURE EVENTS.”

If you wish to attend the hearing, please first visit <https://www.sdcourt.ca.gov> to determine whether you can appear in person and how you can appear remotely by video or phone. Please check the Court’s website for the Court’s current pandemic protocols for appearance at hearings.

If the Court enters final judgment, then the Notice of Entry of Judgment will be posted on the Settlement Administrators’ website at <https://ilymgroup.com>

18. When will I get money after the hearing?

The Court will hold a hearing on [REDACTED], at [REDACTED], to decide whether to approve the settlement. If the Court approves the settlement, then there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time.

If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed after Defendant makes payment to the Settlement Administrator. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

GETTING MORE INFORMATION

19. Are more details available?

This Notice only summarizes the lawsuit, the Settlement, and related matters. For more information, the pleadings and other records in this litigation, including copies of the Settlement Agreement, may

be examined at any time during regular business hours at the office of the Clerk of the Superior Court of the State of California, at the San Diego County Superior Court, located at 330 W Broadway, San Diego, California 92101.

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact the Lawyers for the Class at the address, telephone number or email address set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

Settlement Administrator:

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781
Phone: 888.250.6810

**PLEASE DO NOT CALL OR WRITE TO THE COURT, OR TO ANY OF DEFENDANT'S
MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS
ABOUT THIS NOTICE.**