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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL

KAYLA BEREAL-MURRAY, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

FIVE ACRES - THE BOYS' AND GIRLS'
AID SOCIETY OF LOS ANGELES, and
DOES 1 through 20 inclusive,

Defendants.

Case No. 21STCV20832

**CLASS AND REPRESENTATIVE
ACTION SETTLEMENT AGREEMENT**

Judge: Hon. Stuart M. Rice
Dept.: 1

Complaint Filed: June 3, 2021
Trial Date: TBD

INTRODUCTION

This Class and Representative Action Settlement Agreement (“Settlement Agreement”) is made and entered into by and between Plaintiff KAYLA BEREAL-MURRAY (“Class Representative” or “PLAINTIFF”), individually and on behalf of all putative class members and aggrieved employees, on the one hand, and Defendant FIVE ACRES - THE BOYS’ AND GIRLS’ AID SOCIETY OF LOS ANGELES (“Defendant” or “FIVE ACRES”), on the other hand. PLAINTIFF and FIVE ACRES are collectively referred to herein as the “Parties.” This Settlement Agreement is subject to the terms and conditions set forth below and the Court’s approval. This Settlement Agreement completely resolves the wage and hour class and representative action filed by PLAINTIFF KAYLA BEREAL-MURRAY against Defendant FIVE ACRES on June 3, 2021, in the Superior Court of the State of California, County of Los Angeles, Case No. 21STCV20832.

I. DEFINITIONS

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

1. “Action” means the case entitled *Bereal-Murray v. Five Acres - The Boys’ And Girls’ Aid Society Of Los Angeles*, Case No. 21STCV20832, pending before the Court.

2. “Class” means all residential treatment counselors and crisis intervention specialists who were employed by FIVE ACRES during the Class Period. Members of the Class are referred to herein individually as a “Class Member” and collectively as “Class Members.” FIVE ACRES represents that the Class includes approximately 271 Class Members, who worked approximately 28,000 workweeks, as of February 28, 2022.

3. “Class List” means a list of Class Members that FIVE ACRES will compile from its records.

4. “Class Period” means the time period from December 7, 2016 to the date of Preliminary Approval, unless Defendant elects to limit the Class Period as provided in ¶ 41(b). Such determination regarding the applicable end date of the Class Period will be set after the date of Preliminary Approval, but prior the deadline to provide the Class List to the Settlement Administrator as set forth in Paragraph 55.a.

1 5. “Complaint” means the operative First Amended Complaint (“FAC”) filed by
2 Plaintiff in the Action on January 7, 2022.

3 6. “Court” means the Superior Court of the State of California, County of Los Angeles.

4 7. “Defendant’s Counsel” means Brian D. Martin, Esq. and Geoff D. La Val, Esq. of
5 Atkinson, Andelson, Loya, Ruud & Romo.

6 8. “Effective Date” means the latter of: (a) if no objections to the Settlement Agreement
7 are made in writing or at the hearing for Final Approval, the date the Court enters Judgment and
8 service of entry of judgment is received by Defendant; (b) if objections are made in writing or at the
9 hearing for Final Approval and overruled, and no appeal is taken of the order granting Final
10 Approval, then the Effective Date shall be three (3) calendar days after the deadline to file an appeal
11 of the order granting Final Approval; or (c) if one or more appeals are taken from the Court’s
12 overruling of any objections to the settlement, then the Effective Date shall be three (3) calendar
13 days after any appeal is dismissed or the order granting Final Approval of the settlement is affirmed
14 after an appeal, and the order granting Final Approval is not subject to further review and becomes
15 final.

16 9. “Final Approval” means the Court Order granting final approval of the Settlement
17 Agreement and entering final judgment thereon.

18 10. “Individual Settlement Payment” means each Participating Class Member’s and/or
19 PAGA Group member’s pro rata share of the Net Settlement Proceeds calculated in accordance with
20 the Individual Settlement Payment calculations described below.

21 11. “Maximum Settlement Amount” means the total amount subject to pro rata increase,
22 (separate and apart from employer payroll taxes for wage payments under the Settlement
23 Agreement) FIVE ACRES is required to pay under this Settlement Agreement, subject to
24 PLAINTIFF obtaining Final Approval and the Effective Date occurring. The Maximum Settlement
25 Amount includes only (and all subject to Court approval): (1) the attorneys’ fees of Class Counsel;
26 (2) the litigation costs and expenses of Class Counsel; (3) the Service Award to the Class
27 Representative; (4) the payment to the Labor Workforce and Development Agency (“LWDA”)
28 pursuant to PAGA; (5) all costs of administration, including, without limitation, the Settlement

1 Administrator's fees and expenses; and (6) the Individual Settlement Payments paid to Participating
2 Class Members and PAGA Group Members.

3 12. "Net Settlement Amount" means the portion of the Maximum Settlement Amount,
4 less the amounts approved and awarded by the Court for: (1) the attorneys' fees of Class Counsel;
5 (2) the litigation costs and expenses of Class Counsel; (3) the Service Award to the Class
6 Representative; (4) the payment to the LWDA pursuant to PAGA; (5) all costs of administration,
7 including, without limitation, the Settlement Administrator's fees and expenses.

8 13. "Notice Deadline" means the date by which Class Members must submit to the
9 Settlement Administrator a valid request to be excluded from the settlement, object to the settlement,
10 or dispute the number of workweeks worked during the Class Period. The Notice Deadline shall be
11 sixty (60) calendar days after the initial mailing of the Class Notice. If the date of the Notice
12 Deadline falls on a Sunday or federal holiday, the time to object will be extended to the next calendar
13 day on which the U.S. Postal Service is open.

14 14. "Notice of Settlement" means the notice the Court approves and orders to be sent to
15 all Class Members advising them of their rights under this Settlement Agreement. The Notice of
16 Settlement is attached hereto as Exhibit 1.

17 15. "PAGA" means the California Labor Code Private Attorneys General Act of 2004
18 (Cal. Lab. Code §§ 2698, *et seq.*).

19 16. "PAGA Group" means all Class Members employed by FIVE ACRES during the
20 PAGA Period. Members of the PAGA Group are referred to herein individually as a "PAGA Group
21 Member" and collectively as "PAGA Group Members."

22 17. "PAGA Payment" means the amount the Parties agree to allocate from the
23 Maximum Settlement Amount in order to settle claims arising under PAGA.

24 18. "PAGA Period" shall mean the period from December 7, 2019 to the date of
25 Preliminary Approval, unless Defendant elects to limit the Class Period as provided in ¶ 41(b).

26 19. "Participating Class Members" or "Settlement Class" means all Class Members who
27 do not submit a valid request to be excluded from the settlement, consistent with the terms set forth
28 in this Settlement Agreement.

20. “Plaintiff’s Counsel” or “Class Counsel” means Samuel A. Wong, Esq., Kashif Haque, Esq., and Jessica Campbell, Esq., Aegis Law Firm, PC, counsel of record for PLAINTIFF.

21. “Preliminary Approval” means the Court Order granting preliminary approval of the Settlement Agreement.

22. “Qualified Settlement Account” means the account established by the Settlement Administrator into which the Maximum Settlement Amount and all employer payroll taxes associated therewith shall be deposited by FIVE ACRES.

23. “Released Parties” means FIVE ACRES, its past, present, and/or future owners, officers, directors, managing agents, donors, funders, state agencies, trustees, payroll processors, independent contractors, members, managers, shareholders, employees, attorneys, insurers, assigns, shareholders, successors, predecessors and agents, FIVE ACRES’s past, present, and/or future parent, subsidiary, or affiliated entities, DBAs and franchisors, and each of their owners, officers, directors, managing agents, trustees, payroll processors, independent contractors, members, managers, employees, attorneys, insurers, assigns, shareholders, successors, predecessors and agents.

24. “Released Claims” means any and all claims, damages, or causes of action alleged in, or arising out of, the allegations in the Complaint filed in the Action, which were alleged or that could have been alleged by PLAINTIFF and/or any Participating Class Member in the Complaint based on any of the factual allegations contained therein, including, but not limited to, claims under state, federal (i.e., Fair Labor Standards Act (“FLSA”)) or local law, including, but not limited to claims for unpaid wages, claims for the failure to pay minimum wages, claims for the failure to pay overtime wages, claims related to missed meal and rest breaks or periods and nonpayment of premium pay for such, failure to comply with itemized employee wage statement provisions, failure to pay wages due at separation, failure to timely pay wages during employment, failure to keep requisite payroll records, the failure to reimburse for business expenses, and unfair competition. The Released Claims specifically include, but are not limited to, all claims arising under California Labor Code sections 201, 202, 203, 204, 210, 218.5, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800 and 2802, the Wage Orders of the California

1 Industrial Welfare Commission, California Business and Profession Code sections 17200, *et seq.*,
2 California Code of Civil Procedure section 1021.5, and California common law of contract, interest
3 and claims for attorney's fees relating in any way to those claims alleged and mentioned in the
4 complaint(s).

5 25. "Released PAGA Claims" means any and all claims for civil penalties alleged in, or
6 arising out of, the allegations in the PAGA NOTICE submitted by PLAINTIFF to the LWDA on or
7 around June 1, 2021, which were alleged or that could have been alleged by PLAINTIFF under
8 PAGA based on the California Labor Code violations alleged in the PAGA NOTICE sent by
9 Plaintiff to the LWDA; those being California Labor Code sections 201, 202, 203, 204, 210, 218.5,
10 226, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800,
11 2802, 2698, *et seq.*, the IWC Wage Orders, as well as all facts, theories, or claims for civil penalties
12 that would be considered administratively exhausted under applicable law by the PAGA NOTICE
13 PLAINTIFF sent to the LWDA.

14 26. "Service Award" means an award approved by the Court to the Class Representative
15 in exchange for a general release, and in recognition of her efforts and work in prosecuting the
16 Action on behalf of all Class Members.

17 27. "Settlement Administrator" means a third-party class action settlement administrator
18 mutually agreed to by the Parties and approved by the Court for the purposes of administering this
19 settlement.

20 28. "Settlement Administration Costs" mean all the expenses payable from the
21 Maximum Settlement Amount to the Settlement Administrator for administering this Settlement
22 Agreement, including, but not limited to, calculating weeks of employment from the Class List,
23 printing, translating into foreign language, distributing and tracking forms for this settlement,
24 mailing notices, calculating awards, processing requests for exclusion and objections, performing
25 necessary skip traces on Notices of Settlement returned as undeliverable, mailing Participating Class
26 Members and PAGA Group Members settlement checks, issuing any required tax reporting forms,
27 distributing the Maximum Settlement Amount and Net Settlement Amounts and providing
28 necessary reports and declarations, as requested by the Parties, Class Counsel and Defendant's

Counsel, among other things in this Settlement Agreement.

29. “Workweeks” mean the total number of weeks Class Members worked at least one shift for FIVE ACRES in a non-exempt, hourly-paid position in California at any of its locations during the Class Period. Workweeks shall be calculated by counting the number of days between each Class Member’s first date employed by FIVE ACRES in a non-exempt, hourly-paid position during the Class Period and the last day they were employed by FIVE ACRES in a non-exempt, hourly-paid position during the Class Period, and dividing that sum by seven and rounding up to the nearest whole number

II. PROCEDURAL AND FACTUAL BACKGROUND

30. On or around June 1, 2021, PLAINTIFF submitted a notice to the LWDA announcing her intention to seek recovery of civil penalties for purported violations of the California Labor Code by FIVE ACRES and which attached a copy of a draft complaint (“PAGA NOTICE”).

31. On June 3, 2021, PLAINTIFF filed a putative class action Complaint against FIVE ACRES alleging the following wage and hour claims: (1) failure to pay overtime wages; (2) failure to provide meal periods; (3) failure to permit rest breaks; (4) failure to provide accurate itemized wage statements; (5) failure to pay all wages due upon separation of employment; (6) failure to reimburse necessary business expenses; and (7) violation of Business and Professions Code §§ 17200. On January 7, 2022, PLAINTIFF filed a First Amended Complaint (“FAC”), which added an eighth cause of action for civil penalties under PAGA.

32. After the filing of the Action, PLAINTIFF and FIVE ACRES engaged in informal discovery including the production of policy records, time records, and payroll records for FIVE ACRES’s employees, as well as other data regarding FIVE ACRES’s employees. The Parties exchanged substantial informal discovery and engaged in conferences regarding PLAINTIFF’S claims and the claims of the alleged aggrieved employees, the value of those claims, and FIVE ACRES’s defenses to those claims.

33. On May 24, 2022, the Parties attended a day-long mediation with Hon. Steven R. Denton (Ret.), a respected mediator with substantial experience resolving employment class and representative actions. The matter resolved in the days immediately following the mediation with

the help of Judge Denton for a maximum settlement amount of \$235,000.

34. FIVE ACRES denies any liability or wrongdoing of any kind associated with the claims alleged in the PAGA NOTICE and the COMPLAINT and FAC, and further denies that the Action is appropriate for class treatment for any purpose other than this settlement. FIVE ACRES contends that it has complied with the California Labor Code at all times. It is FIVE ACRES's position that, if this case were to be litigated, Plaintiff's individual claims would be compelled to individual arbitration and the class members would not be able to pursue their individual claims as a class because of their arbitration agreements. Further, even if the class claims were allowed to proceed, class certification would be denied, and the PAGA claims would be found to be without procedural and substantive merit.

35. The Parties expressly acknowledge this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims. The Action, the negotiation and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement Agreement (i) shall not be used as an admission or evidence of wrongdoing on behalf of FIVE ACRES; (ii) shall not be an admission or evidence of fault on behalf of FIVE ACRES in any action before a civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for class certification in the Action or with respect to any other proceeding.

36. Class Counsel represent they have conducted a thorough investigation into the facts and law during the prosecution of the Action, including the exchange of extensive informal discovery and the review and verification of statistical data and other facts and information provided by FIVE ACRES. Counsel for the Parties also represent they investigated the applicable law as applied to the facts discovered regarding the alleged claims of PLAINTIFF, the putative Class, allegedly aggrieved employees, and the potential defenses thereto.

37. Based on their own independent investigation and evaluation, Class Counsel are of the opinion (and will so represent to the Court) that settlement for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risk of significant

1 delay, the risk of successful motions to compel arbitration, the risk any class claims would not be
2 certified by the Court, and the risk of successful defenses asserted by FIVE ACRES. FIVE ACRES
3 and its counsel also agree (and will so represent to the Court) that this settlement is fair and in the
4 best interest of the Settlement Class.

5 38. The Parties agree the Class described herein may be certified for settlement purposes
6 only and that any motion for preliminary approval seeking, *inter alia*, certification of the Class is
7 for purposes of the settlement only. If for any reason the settlement is not approved, the certification
8 will have no force or effect and will immediately be revoked. The Parties further agree that
9 certification for purposes of the settlement is in no way an admission that class certification is proper
10 under the more stringent standard applied for litigation and that evidence of this limited stipulation
11 for settlement purposes only will not be admissible for any purpose in this or any other proceeding.
12 The Parties further agree that by entering this settlement, FIVE ACRES is not waiving any other
13 defenses to the claims including, but not limited to, the right to compel arbitration.

14 **III. TERMS OF AGREEMENT**

15 39. Terms of this Settlement Agreement are Subject to Court Approval. All terms set
16 forth in this Settlement Agreement are subject to Court approval. The Parties stipulate to class
17 certification for purposes of settlement only. PLAINTIFF shall apply to the Court for approval of
18 the Settlement Agreement and for class certification solely for purposes of effectuating this
19 settlement. FIVE ACRES shall not oppose such application, provided PLAINTIFF does not deviate
20 from this Settlement Agreement. If, for any reason, the settlement is not approved, the stipulation
21 to certification will be void. The Parties further agree that certification for purposes of settlement
22 is not an admission that class certification is proper under the standard applied to contested
23 certification motions and that this settlement will not be admissible in this, or in any other, legal
24 process or proceeding as evidence that (i) a class should be certified or (ii) FIVE ACRES is liable
25 to PLAINTIFF or any other Class Members

26 40. Overview of Payment Structure. This settlement is made on a non-reversionary basis.
27 This settlement shall consist of a Maximum Settlement Amount which, in turn, includes only (and
28 all subject to Court approval): (1) the attorneys' fees of Class Counsel; (2) the litigation costs and

1 expenses of Class Counsel; (3) the Service Award to the Class Representative; (4) the payment to
2 the LWDA pursuant to PAGA; (5) all costs of administration including, without limitation, the
3 Settlement Administrator's fees and expenses; and (6) the Individual Settlement Payments paid to
4 Participating Class Members and PAGA Group Members.

5 41. Payments Made by FIVE ACRES. The following are all amounts FIVE ACRES will
6 pay pursuant to this Settlement Agreement:

7 a. *Maximum Settlement Amount.* FIVE ACRES shall pay Two Hundred Thirty-
8 Five Thousand Dollars and Zero Cents (\$235,000.00), subject to pro rata increase to fund settlement
9 of the Action. The payments by FIVE ACRES pursuant to this Settlement Agreement shall settle all
10 claims released herein. The settlement payment is not being made for any other purpose and will
11 not be construed as compensation for determining eligibility for any health and welfare benefits or
12 unemployment compensation. The Maximum Settlement Amount shall also include any interest that
13 accrues in the Qualified Settlement Account created by the Settlement Administrator.

14 b. *Pro Rata Increase.* If the number of Class Members exceeds 271 by more
15 than 20% (i.e. 326 Class Members), or the number of workweeks exceeds 28,000 by more than 20%
16 (i.e. 33,600 workweeks), Defendant will have the option to either (a) accept the pro rata increase
17 such that the GSA increases, at a rate of \$867 per additional Class Member or at a rate of \$8.39 per
18 additional workweek, above the 20% threshold, whichever is greater, or (b) cut off the Class Period
19 and PAGA Period at the day before the pro rata increase would be triggered.

20 c. *Employer Payroll Taxes.* FIVE ACRES shall be responsible for paying
21 employer payroll taxes on wage payments made pursuant to the Settlement Agreement in addition
22 to the Maximum Settlement Amount.

23 d. *No Other Amounts.* FIVE ACRES is under no obligation under this
24 Settlement Agreement to pay, and shall not pay, anything other than the Maximum Settlement
25 Amount and the employer payroll taxes referred to above.

26 42. Funding and Disbursement of Payments Made by FIVE ACRES. FIVE ACRES
27 shall deposit the Maximum Settlement Amount, plus all employer taxes due on wage payments to
28 be made under this Settlement Agreement, with the Settlement Administrator no later than sixty

(60) calendar days after the Effective Date. The Settlement Administrator shall disburse the Maximum Settlement Amount to the recipients designated herein no later than fifteen (15) calendar days after FIVE ACRES's payment above.

43. Payment of Class Counsel's Attorneys' Fees and Litigation Costs and Expenses. FIVE ACRES agrees not to object to, undermine or oppose any application or motion by Class Counsel for an award of attorneys' fees not to exceed \$78,333.33 or 33.33% of the Maximum Settlement Amount, and reasonable litigation-related costs and expenses not to exceed \$20,000 which is subject to review and final approval by the Court. If approved, the Court's award of attorneys' fees and reimbursement of litigation costs and expenses to Class Counsel shall be paid from the Maximum Settlement Amount. Any portion of the amounts sought by Class Counsel not awarded by the Court shall revert back to the Net Settlement Amount for distribution to Participating Class Members, and will not revert to FIVE ACRES under any circumstance. The attorneys' fees and litigation costs and expenses of Class Counsel include, without limitation, all such fees and costs incurred to date, as well as such fees and costs to be incurred in documenting the settlement, securing Court approval of the settlement, and obtaining judgment in the Action. Neither Plaintiff nor Class Counsel will be entitled to any other attorney fees or costs from FIVE ACRES other than awarded by the Court pursuant to this Settlement Agreement. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payments made pursuant to this paragraph. IRS Form 1099 shall be provided to Class Counsel for the payments made pursuant to this paragraph.

44. Service Award. FIVE ACRES agrees not to oppose or object to any application or motion for Service Award to the Class Representative in an amount equal to or less than \$5,000, which shall be payable from the Maximum Settlement Amount and shall be in addition to payment of the Individual Settlement Payment payable to PLAINTIFF, and is further consideration for settling this matter and in exchange for the release of all claims by Participating Class Members. The Settlement Administrator shall issue an IRS Form 1099 for the Service Award. The Class Representative shall be solely and legally responsible to pay any and all applicable taxes on any payment made pursuant to this paragraph. Any reduction in the amount of the Service Award by the Court shall remain in the Net Settlement Amount to be distributed to Participating Class

Members.

45. PAGA Payment. The Parties agree that Sixteen Thousand Dollars and Zero Cents (\$16,000.00) shall be allocated to settle the claims pursuant to the PAGA. Of this amount, seventy-five percent (75%) or \$12,000 shall be made payable to the LWDA and twenty-five percent (25%) or \$4,000 shall be distributed to PAGA Group Members as part of the Net Settlement Amount. The amount of any reduction of the PAGA Payment by the Court shall remain in the Net Settlement Amount to be distributed to Participating Class Members.

46. Settlement Administration Costs. Subject to Court approval, the Parties have agreed that ILYM Group, Inc. will serve as a neutral third-party claims or settlement administrator to perform all acts required by the Settlement Agreement. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. The Settlement Administrator shall be paid for the Settlement Administration Costs. Settlement Administration Costs are expected to total no more than \$8,000. Any portion of the Settlement Administration Costs which is not used shall be returned to the Net Settlement Amount for pro rata distribution to Participating Class Members, and will not revert to FIVE ACRES under any circumstance. The Settlement Administration Costs shall be paid from the Maximum Settlement Amount and shall cover all costs of the administration of the settlement. No fewer than twenty (20) calendar days prior to the Final Approval hearing, the Settlement Administrator shall provide the Court and all counsel for the Parties with a statement detailing the Settlement Administration Costs. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the settlement. An IRS Form 1099 shall be issued to the Settlement Administrator.

47. Net Settlement Amount. The Net Settlement Amount shall be available for distribution to Participating Class Members and PAGA Group Members in accordance with the notice procedure and formula set forth in this Settlement Agreement.

IV. DUTIES OF THE PARTIES BEFORE PRELIMINARY APPROVAL AND

BETWEEN PRELIMINARY AND FINAL APPROVAL

48. Promptly after the execution of this Settlement Agreement, Class Counsel shall move the Court for Preliminary Approval of the Settlement and obtain entry of an order accomplishing the following:

a. Provisionally certifying the Action under California law as a class action for purposes of this settlement only;

b. Preliminarily approving the settlement subject only to objections of Class Members, the terms of the Parties' Settlement Agreement, and final approval by the Court;

c. Approving as to form and content the proposed Notice of Settlement attached hereto as Exhibit 1;

d. Directing the mailing of the Notice of Settlement by first-class mail to the Class Members;

e. Preliminarily appointing PLAINTIFF as a Class Representative and Plaintiff's Counsel as Class Counsel (only for purposes of effectuating and implementing this Settlement Agreement);

f. Preliminarily approving the application for payment of reasonable attorneys' up to a maximum amount of \$78,333.33 or 33.33% of the Maximum Settlement Amount; and reimbursement of reasonable litigation-related costs and expenses not to exceed \$20,000 payable to Class Counsel;

g. Preliminarily approving the Service Award to the Class Representative up to a maximum amount of \$5,000;

h. Preliminarily approving settlement administration services by Settlement Administrator and its estimated Settlement Administration Costs of up to \$8,000.

i. Preliminarily approving the allocation of civil penalties pursuant to PAGA in the amount of \$16,000, seventy-five percent (75%) of which or \$12,000 shall be payable to the LWDA and twenty-five percent (25%) of which or \$4,000 shall be distributed to PAGA Group Members from the Net Settlement Amount; and

j. Scheduling a hearing for Final Approval on the question whether the

1 proposed settlement should be finally approved as fair, reasonable and adequate to Class Members.

2 k. The form and content of the proposed Preliminary Approval order is attached
3 as Exhibit 2 to this Settlement Agreement.

4 49. PLAINTIFF shall submit this Settlement Agreement in support of the Motion for
5 Preliminary Approval. Class Counsel shall not file said motion or any other documents associated
6 with same unless and until Defendant's Counsel has approved the contents thereof.

7 50. PLAINTIFF shall also submit this Settlement Agreement to the LWDA (as required
8 by Labor Code § 2699(l)(2)).

9 51. Class Counsel will file a Motion for Final Approval of the Settlement and supporting
10 documents with the Court no later than sixteen (16) court days prior to the Final Approval Hearing.
11 Supporting documents shall include, but are not limited to: (a) a declaration by the Settlement
12 Administrator of due diligence and proof of mailing of the Notice of Settlement required to be
13 mailed to Class Members by this Settlement Agreement, and of the delivery results of the Settlement
14 Administrator's mailings, including tracing and re-mailing efforts; and (b) a proposed Order and
15 Judgment granting Final Approval. Class Counsel will send Defendant's Counsel the final approval
16 motion for review and approval prior to the filing of same. Defendant's Counsel shall have at least
17 five (5) business days in which to review and approve the Motion for Preliminary Approval and the
18 Motion for Final Approval.

19 52. FIVE ACRES will not object to or oppose Preliminary or Final Approval of the
20 settlement, including application by Class Counsel for the Service Award, attorneys' fees and
21 reimbursement of litigation-related costs and expenses as set forth above, provided the motions do
22 not deviate from the terms of this Settlement Agreement.

23 53. Class Counsel will submit with the motion for Final Approval a proposed Order and
24 Judgment granting Final Approval. The proposed Order and Judgment granting Final Approval shall
25 include the following findings and orders:

26 a. Approving the settlement, adjudging the terms thereof to be fair, reasonable
27 and adequate, and directing that its terms and provisions be carried out;

28 b. Approving payment of the Service Award to the Class Representative;

- c. Approving Class Counsel's application for an award of reasonable attorneys' fees and reimbursement of reasonable litigation-related costs and expenses;
- d. Approving the Settlement Administration Costs;
- e. Approving payment of civil penalties to the LWDA and the PAGA Group Members;
- f. Ordering the payment of Individual Settlement Payments in accordance with the terms of this Agreement;
- g. Listing the individuals who opted-out of the Settlement and will not be included in the releases or bound by the Judgment.
- h. Entering Final Approval releasing all Released Claims of the Participating Class Members against all Released Parties;
- i. Entering judgment in this Action in accordance with this Settlement Agreement, pursuant to Cal. Rules of Court, Rule 3.769(h);
- j. Requiring the Settlement Administrator to post a copy of the Judgment on its website for a period of at least 30 days from the date the Judgment is executed in compliance with Cal. Rules of Court, Rule 3.771(b); and
- k. Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the settlement and the Court's orders; and
- l. The form and content of the proposed Order and Judgment granting Final Approval is attached as Exhibit 3 to this Settlement Agreement.

V. DUTIES OF THE PARTIES AFTER FINAL APPROVAL

54. Following entry of the Court's Order and Judgment granting Final Approval of the Settlement Agreement, the Parties will each act to assure its timely execution and the fulfillment of all its provisions, including, but not limited to the following:

- a. Class Counsel will immediately file and serve a written Notice of Entry of judgment or a filed-endorsed copy of the judgment, accompanied by proof of service, on any person who objected to the settlement in writing or at the hearing on the Motion for Final Approval;
- b. Should an appeal be taken from the Order and Judgment granting Final

Approval of the Settlement Agreement, all Parties will support the Order and Judgment granting Final Approval on appeal;

c. Class Counsel and Defendant's Counsel will reasonably assist the Settlement Administrator as needed or requested in the process of identifying and locating Participating Class Members and PAGA Group Members entitled to payments from the Net Settlement Amount and assuring delivery of such payments;

d. Class Counsel and Defendant's Counsel will reasonably assist the Settlement Administrator as needed or requested in responding to late requests for payments from the Net Settlement Amount;

e. Class Counsel and Defendant's Counsel will ensure that the Settlement Administrator will certify to the Court completion of all payments required to be made by this Settlement Agreement.

VI. PROCEDURE AND ADDITIONAL TERMS

55. Notice Procedure. The Settlement Administrator shall be responsible for the following notice procedure:

a. *Delivery of the Class List.* Within fifteen (15) calendar days from Class Counsel providing notice to Defendant's Counsel that the order granting preliminary approval has been provided to the Settlement Administrator, FIVE ACRES shall provide the Class List to the Settlement Administrator. The Class List shall contain (to the extent available in FIVE ACRES's business records) Class Members' full name, last known addresses, social security numbers, and workweeks in the Class Period, and workweeks in the PAGA Period. The Class List information shall remain confidential and shall not be disclosed to anyone, including Class Counsel, except to carry out reasonable efforts described below, or pursuant to express written authorization by FIVE ACRES. The Settlement Administrator shall use due care with respect to the storage, custody, use, and/or dissemination of the confidential information. The Settlement Administrator will perform address updates and verifications as necessary prior to the first mailing.

b. *Notice.* A notice of pendency of class action, proposed settlement and hearing date for Court approval (previously defined as Notice of Settlement), substantially in the form

1 attached hereto as Exhibit 1 and as approved by the Court, shall be sent by the Settlement
2 Administrator to the Class Members (in English and Spanish), by first class mail, within fifteen (15)
3 calendar days after receipt of the Class List. Prior to the initial mailing, the Settlement Administrator
4 will check all Class Member addresses against the National Change of Address database and shall
5 update any addresses, as necessary. The Notice of Settlement shall be sent via regular First Class
6 U.S. Mail, using the most updated mailing addresses, and notify Class Members of the terms of the
7 settlement, their ability to object to the settlement in writing and/or in person, and their ability to
8 submit a Request for Exclusion. The Notice of Settlement will further inform Class Members of the
9 Court-established deadlines for filing objections and requesting to be excluded from the Class. The
10 Notice of Settlement will also include the calculation of Workweeks during the applicable Class
11 Period and calculation of the Class Member's estimated payment (which will be based upon the
12 assumption that the requests for attorney's fees and costs and the Service Award is awarded in full).

13 c. *Procedure for Lost and Undeliverable Notices.* Any Notice of Settlement
14 returned to the Settlement Administrator as non-delivered on or before the Notice Deadline shall be
15 sent to the forwarding address affixed thereto, if a forwarding address is provided. If no forwarding
16 address is provided, the Settlement Administrator shall promptly, but no later than fifteen (15)
17 business days of receiving notice that the Notice of Settlement was undeliverable, attempt to
18 determine a correct mailing address using a skip-trace, or similar search, using the name, address
19 and/or social security number of the Class Member involved, and promptly re-mail the Notice of
20 Settlement. If after the Notice of Settlement is still returned to the Settlement Administrator as non-
21 deliverable after re-mailing, that individual will be deemed a Participating Class Member for
22 purposes of the Released Claims (as defined below), and the Settlement Administrator will have no
23 further obligation to obtain the Class Member's current address. The Notice Deadline for any Class
24 Member who is re-mailed a Notice of Settlement shall be extended twenty-one (21) calendar days
25 from the date of the re-mailing or the original sixty (60) calendar day deadline, whichever is later.

26 56. Request for Exclusion Procedure. The Notice of Settlement shall provide Class
27 Members with instructions on how to exclude themselves or "opt out" if they do not wish to
28 participate in this settlement.

1 a. Class Members who wish to opt out of this settlement must mail a written
2 request to be excluded from the Settlement (“Request for Exclusion”) to the Settlement
3 Administrator no later than the Notice Deadline, unless extended pursuant to a re-mailing, or unless
4 the Court requires a longer period, in which case the Court-ordered deadline period will apply. To
5 be valid, a Request for Exclusion must include the Class Member’s name, signature, the last four
6 digits of their Social Security Number, and a clear statement indicating they wish to be excluded
7 from the settlement. In order to be valid, a Class Member’s Request for Exclusion must be
8 postmarked, faxed, or e-mailed to the Settlement Administrator no later than the Notice Deadline.

9 b. Within ten (10) calendar days after receipt by the Settlement Administrator
10 of each timely-submitted Request for Exclusion, the Settlement Administrator will send a deficiency
11 notice to such Class Members requesting exclusion and note any irregularities in the Request for
12 Exclusion (such as failure to sign or include last four (4) digits of the Class Member’s social security
13 number). The deficiency notice will provide the Class Members no more than ten (10) calendar
14 days from the mailing of the deficiency notice to resubmit a revised Request for Exclusion that cures
15 all deficiencies. The failure of a Class Member to cure all deficiencies in a timely manner shall
16 invalidate the Request for Exclusion and will not be subject to cure.

17 c. A Class Member who does not properly and timely submit a Request for
18 Exclusion of the Settlement Agreement in the manner and by the deadline specified above will
19 automatically become a Participating Class Member and will be bound by all terms and conditions
20 of the Settlement Agreement, including its release of claims, if the Settlement Agreement is
21 approved by the Court, and be bound by the Final Approval Order, regardless of whether he or she
22 has objected to the Settlement Agreement. In consideration for settlement and release of all claims
23 of the Participating Class Members against FIVE ACRES, each Participating Class Member will
24 receive a pro rata share of the Net Settlement Amount.

25 d. A Class Member who properly and timely submits a Request for Exclusion
26 of the Settlement Agreement will not become a Participating Class Member, will not be bound by
27 the Settlement Agreement, and will not have a right to appear at the Final Approval hearing to have
28 any objections to the settlement heard by the Court.

1 e. To the extent any Class Member submits a Request for Exclusion, that Class
2 Member's unclaimed portion shall be reallocated to the Net Settlement Amount. Increases to
3 Participating Class Member payments shall be allocated on a proportional basis based on the size of
4 each Participating Class Member's Workweeks.

5 f. Counsel for the Parties shall not discourage any Class Member from
6 participating in, objecting to or opting out of the settlement.

7 g. If more than fifteen (15) Class Members timely and properly submit a
8 Request for Exclusion, then FIVE ACRES shall have the right, in its sole discretion, to void and
9 revoke the Settlement Agreement and its stipulation to class certification. All signatories and their
10 counsel must not encourage opt-outs. The Parties specifically agree not to solicit opt-outs, directly
11 or indirectly, through any means. Objective statements to Class Members who call Class Counsel
12 with inquiries regarding the settlement, or the exercise of Class Counsel's ethical obligations, shall
13 not be deemed a violation of the prohibitions contained herein. In the event of such a rescission, no
14 party may use the fact that the Parties agreed to settle this case as evidence of FIVE ACRES's
15 liability in this Action or the lack thereof.

16 h. The Settlement Administrator will notify the Parties of the total number of
17 valid Requests for Exclusion forms and identify the individuals who submitted a request for
18 exclusion within ten (10) calendar days after the Notice Deadline. FIVE ACRES shall have five (5)
19 business days to notify Class Counsel in writing of FIVE ACRES's intent to revoke the Settlement
20 Agreement, including conditional class certification. FIVE ACRES agrees to pay Settlement
21 Administrator costs if it revokes the Settlement Agreement. FIVE ACRES's deadline to notify
22 Class Counsel of the intent to revoke the Settlement Agreement will be extended, if at the time of
23 the Notice Deadline there are sufficient Class Members to exceed the 15 Class Member threshold
24 whose deadline to provide a Request for Exclusion was extended because of a re-mailed Notice of
25 Settlement, to five (5) business days after the last extended deadline to provide a Request for
26 Exclusion.

27 i. Class Members who are also PAGA Group Members will not be permitted to
28 exclude themselves from the PAGA claim portion of the settlement. PAGA penalty settlement

1 payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to
2 the PAGA Group Members including to those Class Members who are PAGA Group Members who
3 submitted a request for exclusion.

4 57. Objection Procedure. Class Members who wish to object to this settlement should
5 notify the Settlement Administrator in writing, via mail, e-mail, or fax, that they object to the
6 settlement by the Notice Deadline. In order to be valid, a Class Member's objection to the settlement
7 must be postmarked, faxed, or e-mailed to the Settlement Administrator no later than the Notice
8 Deadline. The Settlement Administrator shall notify and submit a copy of the objection to Class
9 Counsel and Defendant's Counsel forthwith and Class Counsel shall lodge a copy of the objection
10 with the Court. Any objection sent to the Settlement Administrator must be postmarked no later
11 than the Notice Deadline, unless the Court requires a longer period, in which the Court ordered
12 objection period will apply. The objection should provide the name of the Class Member, all facts
13 and reasons why the Class Member is objecting to the settlement along with any legal authority, and
14 signed by the Class Member. Class Members shall be permitted to rescind their objections in writing
15 by submitting a rescission statement to the Settlement Administrator not later than one (1) business
16 day before the Court's Final Approval hearing or as otherwise ordered by the Court. Whether or
17 not they timely submit a written objection, Class Members may appear at the Final Approval hearing
18 to have their objections heard by the Court.

19 58. Disputed Information on Notice of Settlement. Each Class Member shall have an
20 opportunity to dispute the number of Workweeks attributed to him or her as identified in the Class
21 Notice. To the extent a Class Member disputes number of Workweeks identified and listed in the
22 Class Notice, the Class Member may produce evidence to the Settlement Administrator showing
23 that such information is inaccurate. In order to be valid, a Class Member's dispute the number of
24 Workweeks, and the evidence in support of such dispute, must be received by the Settlement
25 Administrator no later than the Notice Deadline. Absent evidence rebutting FIVE ACRES's records,
26 FIVE ACRES's records will be presumed determinative. Defense Counsel and Class Counsel shall
27 jointly determine the number of eligible Workweeks that should apply. If the Defense Counsel and
28 Class Counsel cannot agree the dispute will be submitted to the Court.

1 59. The Settlement Terms Bind All Class Members Who Do Not Submit a Timely and
2 Valid Request for Exclusion. Any Class Member who does not affirmatively opt-out of the
3 Settlement Agreement by submitting a timely and valid Request for Exclusion consistent with the
4 terms of this Settlement Agreement shall be bound by all of its terms, including those pertaining to
5 the Released Claims (as defined below), as well as any Final Approval that may be entered by the
6 Court when it grants Final Approval of the settlement.

7 60. Certification Reports Regarding Requests for Exclusion, Disputes, and
8 Undeliverable Notices. The Settlement Administrator shall provide Defendant's Counsel and Class
9 Counsel a weekly report which certifies: (a) the number of Class Members who have submitted a
10 valid or defective Request for Exclusion; (b) the number of Class Member who have disputed the
11 number of Workweeks contained in their Notice of Settlement; and (c) the number of returned,
12 undeliverable and/or re-mailed Notices of Settlement. Additionally, the Settlement Administrator
13 shall provide to Defendant's Counsel and Class Counsel any updated reports regarding the
14 administration of the Settlement Agreement as needed or requested.

15 61. Individual Settlement Payment Calculations. The Settlement Administrator shall
16 determine the eligibility for, and the amounts of, any Individual Settlement Payments under the
17 terms of this Settlement Agreement. Should any question arise regarding the determination of
18 eligibility for participation in the settlement or the amount of any Individual Settlement Payment
19 under the terms of this Settlement Agreement, Class Counsel and Defendant's Counsel will meet
20 and confer and attempt to reach agreement. Any unresolved disputes concerning the administration
21 of the Settlement Agreement will be resolved by the Court, under the laws of the State of California.

22 62. Method of Calculating the Individual Settlement Payments: Individual Settlement
23 Payments will be calculated as follows:

24 a. *PAGA Group Members.* The Settlement Administrator will calculate the total
25 Workweeks for all PAGA Group Members by adding the number of workweeks worked by each
26 PAGA Group Member during the PAGA Period. The amount that each PAGA Group Member will
27 be eligible to receive will be calculated by dividing each PAGA Group Member's individual
28 Workweeks by the total Workweeks of all PAGA Group Members, and multiplying the resulting

1 fraction by \$4,000. The Settlement Administrator will determine the total number of qualifying
2 Workweeks for each PAGA Group Member which will be finalized after approval by the Parties.

3 b. *Participating Class Members.* The Settlement Administrator will calculate
4 the total Workweeks for all Participating Class Members by adding the number of workweeks
5 worked by each Participating Class Member during the Class Period. The amount that each
6 Participating Class Member will be eligible to receive will be calculated by dividing each
7 Participating Class Member's individual Workweeks by the total Workweeks of all Participating
8 Class Members, and multiplying the resulting fraction by the Net Settlement Amount less the
9 \$4,000. The Settlement Administrator will determine the total number of qualifying Workweeks for
10 each Participating Class Member which will be finalized after approval by the Parties.

11 c. *Calculation of Individual Settlement Payment.* For Participating Class
12 Members who are also PAGA Group Members the Individual Settlement Payment will be the sum
13 of the amounts calculated for that Class Member in paragraphs 62.a. and 62.b. For Participating
14 Class Members who not are also PAGA Group Members the Individual Settlement Payment will be
15 the amount calculated for that Class Member in paragraph 62.b. For PAGA Group Members who
16 are not also Participating Class Members, the Individual Settlement Payment will be the amount
17 calculated for that PAGA Group Member in paragraphs 62.a. The Settlement Administrator will
18 determine the amounts of the payments to each Class Member will be finalized after approval by
19 the Parties.

20 63. Allocation and Tax Treatment of Individual Settlement Payments. Individual
21 Settlement Payments shall be allocated as follows: One hundred percent (100%) of the PAGA Group
22 Members share of the PAGA Payment shall be civil penalties; Ninety percent (90%) of the
23 Individual Settlement Payment (excluding any portion of the share of the PAGA Payment) to
24 Participating Class Members as wages; and Ten percent (10%) of the Individual Settlement Payment
25 (excluding any portion of the share of the PAGA Payment) to Participating Class Members as non-
26 wage statutory damages and interest. Portions of each Individual Settlement Payment allocated as
27 wages will be reported on an IRS Form W-2. Portions allocated as non-wage statutory damages and
28 interest, and those portions allocated as PAGA penalties, will be reported on an IRS Form 1099.

64. Payment of Individual Settlement Payments. The Settlement Administrator shall have the authority and obligation to make all payments, credits and disbursements, calculated in accordance with the methodology set forth in this Settlement Agreement and orders of the Court. The Settlement Administrator's duties will include reporting payment of the Individual Settlement Payments to all required taxing and other authorities, taking appropriate withholding from the Individual Settlement Payments, and issuing the appropriate IRS Forms W-2 and 1099. No person shall have any claim against FIVE ACRES, Defendant's Counsel, PLAINTIFF, Class Counsel, the Settlement Administrator, or any Participating Class Member and/or PAGA Group Member based on distributions and payments made in accordance with this Settlement Agreement.

65. No Credit Toward Employer Provided Benefit Plans. All Individual Settlement Payments to Participating Class Members and PAGA Group Members shall be deemed to be income to such Participating Class Members or PAGA Group Members solely in the year in which such awards actually are received by the Participating Class Members and PAGA Group Members. It is expressly understood and agreed that the receipt of such Individual Settlement Payments will not entitle any Participating Class Member or PAGA Group Member to additional compensation or benefits under any company bonus, paid time off (including vacation and sick leave), or other compensation or benefit plan or agreement in place during the period covered by the Settlement Agreement, nor will it entitle any Participating Class Member or PAGA Group Member to any increased retirement, 401(k) benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement Agreement that the Individual Settlement Payments provided for in this Agreement are the sole payments to be made by FIVE ACRES to the Participating Class Members and PAGA Group Members in connection with this Settlement Agreement, and that the Participating Class Members and PAGA Group Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement Agreement).

66. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH

PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

67. Non-Negotiated Settlement Checks. Participating Class Members and PAGA Group Member must cash each of their Individual Settlement Payment checks within one hundred eighty (180) calendar days after they are mailed by the Settlement Administrator. The Parties agree that any uncashed checks, subject to Court approval, shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of those Participating Class Members and PAGA Group Members who did not cash

1 their checks until such time that they claim their property. The Parties agree that this disposition
2 results in no “unpaid residue” under California Civil Procedure Code section 384, as the entire Net
3 Settlement Amount will be paid out to Participating Class Members and PAGA Group Members.

4 68. Settlement Administrator’s Final Report(s). Not less than ten (10) calendar days
5 after the Notice Deadline, the Settlement Administrator shall report to Defendant’s Counsel and
6 Class Counsel: (i) the names of individuals who opted-out of the settlement; (ii) the Individual
7 Settlement Payments owed to each Participating Class Member and/or PAGA Group Member; and
8 (iii) the final number of Class Members who have submitted objections and/or valid Requests for
9 Exclusion requests from the settlement. Upon completion of administration of the settlement, the
10 Settlement Administrator will provide a written declaration under oath to certify such completion to
11 the Court and counsel for all Parties. Additionally, once FIVE ACRES fully funds the Maximum
12 Settlement Amount and payroll taxes, the Settlement Administrator will provide a written
13 declaration under oath to certify FIVE ACRES’s full and final satisfaction of the Maximum
14 Settlement Amount and payroll taxes and for FIVE ACRES’s use and records.

15 69. Release of Claims. Upon the funding of the Maximum Settlement Amount and all
16 applicable employer-side payroll taxes, and except as to such rights or claims as may be created by
17 this Settlement Agreement, each and every Participating Class Member, on behalf of themselves
18 and their heirs and assigns, releases the Released Parties from the Released Claims that arose during
19 the Class Period. A Participating Class Member’s cashing of the settlement check will be considered
20 a consent and opt-in to the settlement of all federal wage and hour claims under the FLSA which
21 are encompassed within these Released Claims, and each Participating Class Member who cashes
22 his or her settlement check will waive his or her rights to bring such claims under the FLSA which
23 arose during the Class Period. A Participating Class Member who does not cash his or her settlement
24 check will retain all rights and claims under the FLSA. However, the settlement will still discharge
25 and extinguish the claims described herein under California law, including those for Participating
26 Class Members who do not cash their settlement checks or who do not opt out of the settlement.

27 70. Release of PAGA Claims. Upon the funding of the Maximum Settlement Amount
28 and all applicable employer-side payroll taxes, and except as to such rights or claims as may be

1 created by this Settlement Agreement, each and every PAGA Group Member, on behalf of
2 themselves and their heirs and assigns, and Plaintiff, on behalf of the State of California, releases
3 the Released Parties from the Released PAGA Claims that arose during the PAGA Period.

4 71. General Release by Class Representative Only. Upon the funding of the Maximum
5 Settlement Amount and all applicable employer-side payroll taxes, the Class Representative
6 individually releases the Released Claims against the Released Parties, and makes the additional
7 following General Release in favor of the Released Parties:

8 a. Class Representative individually hereby unconditionally waives and forever
9 releases, waives, discharges, any and all demands, damages, debts, liabilities, contracts, obligations,
10 actions, causes of action and claims of every kind, nature, and description whatsoever, whether now
11 known or unknown, suspected or unsuspected, including in equity or otherwise, which she ever had
12 or now has against the Released Parties arising or accruing at any time prior to the Effective Date,
13 including without limitation any matter, cause or claim arising out of or related to facts or events
14 occurring prior to the execution of this Settlement Agreement, and/or related to her employment
15 with FIVE ACRES and her separation therefrom. At a minimum, the claims released by the Class
16 Representative include but are not limited to: (a) any claims that were or could have been brought
17 under California Labor Code sections 201, 202, 203, 204, 210, 218.5, 226, 226.7, 510, 512, 558,
18 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800 and 2802, the
19 Wage Orders of the California Industrial Welfare Commission, the FLSA, and all related or
20 corresponding federal laws, and all implementing regulations and interpreting guidance; (b) any
21 claims that were or could have been brought under California Corporations Code, and California
22 Business and Professions Code, including but not limited to California Business and Professions
23 Code section 17200 *et seq.* as unlawful, fraudulent or misleading based on the claims, facts and
24 allegations alleged in the Action (including, but not limited to, claims of conduct unlawful under
25 state or federal law); (c) any other causes of action, including those seeking premiums, penalties,
26 interest, punitive damages, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting,
27 whether such causes of action are in tort, contract, equity, statute, or common law; (d) any claims
28 under the Fair Employment and Housing Act, Americans with Disabilities Act, Age Discrimination

1 in Employment Act, and Title VII of the Civil Rights Act of 1964, and (e) any other claims the Class
2 Representative could have made related to her employment with FIVE ACRES. The Class
3 Representative may hereafter discover facts in addition to or different from those which she now
4 knows or believes to be true, but stipulates and agrees that, upon the funding of the Maximum
5 Settlement Amount and all applicable employer-side payroll taxes, she fully, finally, and forever
6 settles and releases any and all claims, known or unknown, suspected or unsuspected, contingent or
7 non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed,
8 upon any theory of law or equity and without regard to the subsequent discovery or existence of
9 such different or additional facts. PLAINTIFF is deemed, by operation of the Order granting Final
10 Approval, to have agreed not to sue or otherwise make a claim against any of the Released Parties
11 for any claim.

12 b. Class Representative acknowledges that she has had the opportunity to
13 review, and has reviewed, California Civil Code section 1542, which provides:

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

18 Being fully informed of this provision of the Civil Code and understanding its provisions, the
19 Plaintiff and Class Representative agrees to waive any rights under that section, and acknowledges
20 that this Settlement Agreement and the release contained herein extends to all claims that she has or
21 might have against the Released Parties, including those which are presently unknown to her or that
22 she does not know or suspect to exist, which, if known by her, might have affected her settlement
23 with, and release of, the Released Parties or might have affected her decision.

24 72. Final Approval Hearing and Entry of Judgment. Upon expiration of the deadlines to
25 postmark a request to be excluded from or objection to the Settlement Agreement, and with the
26 Court's permission, a Final Approval hearing shall be conducted to finally determine the fairness of
27 the settlement, along with the amounts properly payable for (a) Individual Settlement Payments; (b)
28 the Class Representative Service Award; (c) Class Counsel's attorneys' fees and litigation costs and

1 expenses; (d) Settlement Administration Costs; and (e) the PAGA Payment. Class Counsel will be
2 responsible for drafting the attorneys' fees and costs application/motion to be heard at the Final
3 Approval hearing, which such application/motion may be part of the Class Representative's motion
4 for final approval.

5 73. Judgment and Continued Jurisdiction. Upon Final Approval of the settlement by the
6 Court or at the time of or subsequent to the Final Approval hearing, the Parties shall present a Final
7 Approval to the Court for approval and entry. After entry of the Final Approval, the Court shall
8 have continuing jurisdiction under Code of Civil Procedure section 664.6 solely for purposes of
9 addressing: (a) the interpretation and enforcement of the terms of the settlement, (b) Settlement
10 Administration matters, (c) failure to timely pay all amounts owed by Defendant, and (d) such
11 post-Final Approval matters as may be appropriate under court rules or as set forth in this Settlement
12 Agreement.

13 74. No Solicitation of Settlement Objections or Exclusions. The Parties agree to use
14 their best efforts to carry out the terms of this Settlement Agreement. At no time shall any of the
15 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit either a
16 Request for Exclusion or written objections to the Settlement Agreement or to appeal from the
17 Court's Final Approval.

18 75. Interim Stay of Proceedings. Pending completion of the settlement process, the
19 Parties agree to a stay of all proceedings in the Action except such as are necessary to implement
20 the Settlement itself and the Parties agree to refrain from further litigation of this matter, except as
21 to proceedings necessary to implement and obtain an order granting Final Approval of the terms of
22 the settlement.

23 76. Nullification of Settlement Agreement. In the event: (i) FIVE ACRES timely and
24 properly revokes this Settlement Agreement as set forth in paragraph 56.(g). herein; (ii) the Court
25 does not finally approve the Settlement Agreement as provided herein; (iii) the Court does not enter
26 Final Approval as provided herein, which becomes final as a result of the occurrence of the Effective
27 Date; or (iv) the Settlement Agreement does not become final for any other reason, this Settlement
28 Agreement shall be null and void and any order or judgment entered by the Court in furtherance of

1 this Settlement Agreement shall be treated as void from the beginning. In such a case, the Parties
2 shall be returned to their respective statuses as of the date and time immediately prior to the
3 execution of this Settlement Agreement and the Parties shall proceed in all respects as if this
4 Settlement Agreement had not been executed (and the terms and existence of the Settlement
5 Agreement will be confidential). In the event an appeal is filed from the Court's Final Approval, or
6 any other appellate review is sought prior to the Effective Date, administration of the Settlement
7 Agreement shall be stayed pending final resolution of the appeal or other appellate review (unless
8 otherwise agreed to by the Parties).

9 77. No Admission. Nothing contained herein, nor the consummation of this Settlement
10 Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or
11 wrongdoing on the part of FIVE ACRES or any of the other Released Parties. FIVE ACRES
12 specifically denies any and all liability. Each of the Parties hereto has entered into this Settlement
13 Agreement with the intention of avoiding further disputes and litigation with the attendant
14 inconvenience and expenses. This Settlement Agreement is a settlement document and, pursuant to
15 California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any other
16 similar law, shall be inadmissible in evidence in any proceeding, except an action or proceeding to
17 approve the settlement, and/or interpret or enforce this Settlement Agreement, including but not
18 limited to use as a bar or affirmative defense, in whole or in part, to other or future claims or actions.

19 78. Construction. The Parties hereto agree that the terms and conditions of this
20 Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the
21 Parties, and that this Settlement Agreement shall not be construed in favor of or against any party
22 by reason of the extent to which any Party or his, her, or its counsel participated in the drafting of
23 this Settlement Agreement.

24 79. Notices. Unless otherwise specifically provided herein, all notices, demands or other
25 communications given hereunder shall be in writing and shall be deemed to have been duly given
26 as of the third business day after mailing by U.S. registered or certified mail, return receipt requested,
27 addressed as follows:

28 To Class Counsel:

To Defendant's Counsel:

Samuel A. Wong (SBN 217104)
swong@aegislawfirm.com
Kashif Haque (SBN 218672)
khaque@aegislawfirm.com
Jessica Campbell (SBN 280626)
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Brian D. Martin (SBN 199255)
Brian.Martin@aalrr.com
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Geoffrey.LaVal@aalrr.com
Atkinson, Andelson, Loya, Ruud & Romo 4275
Executive Square, Suite 700
La Jolla, CA 92037-1477
T: (858) 485-9526
F: (858) 485-9412

80. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for hereunder, and Participating Class Members and PAGA Group Members are not relying on any statement or representation by the Parties in this regard. Participating Class Members and PAGA Group Members understand and agree that Participating Class Members and PAGA Group Members will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein.

81. Headings. The descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for convenience of reference only and do not constitute a part of this Settlement Agreement, and in no way, define, limit, extend, or describe the scope of this Settlement Agreement or any provision herein.

82. Amendment or Modification. Unless otherwise provided herein, this Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest, and approved by the Court.

83. Entire Agreement. This Settlement Agreement, any supplemental written agreement subsequently incorporated, and any attached exhibits constitute the entire Settlement Agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

84. Authorization to Enter into Settlement Agreement. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to

1 the terms and conditions hereof.

2 85. Mutual Full Cooperation. The Parties and their counsel will cooperate with each
3 other and use their best efforts to effect the implementation of the Settlement Agreement, including
4 but not limited to, execution of such documents and to take such other action as may be reasonably
5 be necessary to implement the terms of this Settlement Agreement. As soon as practicable after
6 execution of this Settlement Agreement, Class Counsel shall, with the assistance of FIVE ACRES
7 and Defendant's Counsel, take all necessary steps to secure the Court's Preliminary Approval and
8 Final Approval of this Settlement Agreement. In the event the Parties are unable to reach agreement
9 on the form or content of any document needed to implement the Settlement Agreement, or on any
10 supplemental provisions that may become necessary to effectuate the terms of this Settlement
11 Agreement, the Parties may seek the assistance of the Court to resolve such disagreement.

12 86. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they
13 have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer,
14 or encumber to any person or entity any portion of liability, claim, demand, action, cause of action,
15 or rights herein released and discharged except as set forth herein.

16 87. Binding on Successors and Assigns. This Settlement Agreement shall be binding on
17 the Parties' successors, assigns, and agents, and inures to the benefit of the Released Parties,
18 including FIVE ACRES and its past, present, and/or future owners, officers, directors, managing
19 agents, trustees, payroll processors, independent contractors, members, managers, shareholders,
20 employees, attorneys, insurers, assigns, shareholders, successors, predecessors and agents, FIVE
21 ACRES's past, present, and/or future parent, subsidiary, or affiliated entities, DBAs and franchisors,
22 and each of their owners, officers, directors, managing agents, trustees, payroll processors,
23 independent contractors, members, managers, employees, attorneys, insurers, assigns, shareholders,
24 successors, predecessors and agents.

25 88. Participating Class Member Signatories. It is agreed that because the Participating
26 Class Members are so numerous, it is impossible or impractical to have each Participating Class
27 Member execute this Settlement Agreement. The Notice of Settlement will advise all Class
28 Members of the binding nature of the release and, upon Final Approval, such shall have the same

1 force and effect as if this Settlement Agreement were executed by each Participating Class Member.
2 Notice of Entry of Judgment shall be served by the Class Representative on FIVE ACRES.

3 89. California Law Governs. All terms of this Settlement Agreement shall be governed
4 by and interpreted according to the laws of the State of California, without giving effect to any
5 conflict of law principles or choice of law principles.

6 90. Counterparts. This Settlement Agreement may be executed in one or more
7 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
8 instrument provided that counsel for the Parties to this Settlement Agreement shall exchange among
9 themselves original signed counterparts.

10 91. The Class Representative's Waiver of Right to be Excluded and Object. The Class
11 Representative agrees that by signing this Settlement Agreement, she is bound by the terms herein
12 stated and further agrees not to request to be excluded from the settlement and agrees not to object
13 to any of the terms of this Settlement Agreement. Any such letter requesting to be excluded from
14 the settlement or objection shall therefore be void and of no force or effect. Efforts by the Class
15 Representative to circumvent the terms of this paragraph shall be void and of no force or effect.

16 92. Confidentiality Preceding Preliminary Approval. The Class Representative and
17 Class Counsel agree that the terms of this settlement (including, but not limited to, the Maximum
18 Settlement Amount), the negotiations leading to this settlement, and all documents related to the
19 settlement shall not be discussed with, advertised, marketed, publicized, published, reported, or
20 promoted to the public, except as necessary to effectuate and/or enforce the terms of this
21 Settlement Agreement. The Class Representative and Class Counsel will not publicize the terms
22 of this Settlement Agreement and will not issue any press releases except that the Class
23 Representative and Class Counsel may disclose in legal proceedings a summary of the terms of the
24 Settlement Agreement and may communicate with Class Members regarding the settlement, its
25 terms, its history (apart from settlement communications). Plaintiff's counsel may disclose
26 publicly-available information about the case only to the extent they do so in declarations
27 establishing their adequacy as counsel in other cases, as required by the Court.
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Dated: March 22, 2023

FIVE ACRES - THE BOYS' AND GIRLS' AID
SOCIETY OF LOS ANGELES

By: 

Title: CEO

Dated:

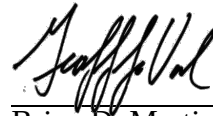
KAYLA BEREAL-MURRAY

By: _____
KAYLA BEREAL-MURRAY

APPROVED AS TO FORM ONLY

Dated: March 22, 2023

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO

By: 
Brian D. Martin
Geoff D. La Val
Attorneys for Defendant FIVE ACRES - THE
BOYS' AND GIRLS' AID SOCIETY OF LOS
ANGELES

Dated:

AEGIS LAW FIRM, PC

By: _____
Samuel A. Wong
Kashif Haque
Jessica Campbell
Steven McNicholl
Attorneys for Plaintiff KAYLA BEREAL-
MURRAY

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

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Dated: FIVE ACRES - THE BOYS' AND GIRLS' AID SOCIETY OF LOS ANGELES

By: _____

Title:

Dated: 3/22/2023 | 9:38 AM PDT

KAYLA BEREAL-MURRAY

By: 
KAYLA BEREAL-MURRAY

APPROVED AS TO FORM ONLY

Dated: ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: _____
Brian D. Martin
Geoff D. La Val
Attorneys for Defendant FIVE ACRES - THE BOYS' AND GIRLS' AID SOCIETY OF LOS ANGELES

Dated: March 22, 2023 AEGIS LAW FIRM, PC

By: Steven McNicholl
Samuel A. Wong
Kashif Haque
Jessica Campbell
Steven McNicholl
Attorneys for Plaintiff KAYLA BEREAL-MURRAY