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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

COORDINATION PROCEEDING
SPECIAL TITLE [RULE 3.550]

SUPER DUPER BURGERS WAGE AND
HOUR CASES

Included actions:

Martinez v. Back of the House, Inc., et al.,
No. RG21113642 (Alameda County Super.
Ct.)

Martinez v. Back of the House, Inc., et al.,
No. CGC-21-594380 (San Francisco County
Super. Ct.)

Lopez v. Back of the House, Inc., et al.,
No. CGC-19-579624 (San Francisco County
Super. Ct.)

Judicial Council Coordination Proceeding No.:
CJC-22-005249

Honorable Ethan P. Schulman
Department 304

CLASS ACTION

**DECLARATION OF TARA ZABEHI IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Plaintiff's Notice of Motion and Renewed
Motion for Preliminary Approval of Class
Action Settlement; Declaration of Proposed
Class Representative (Erickson Martinez); and
[Proposed] Order filed concurrently herewith]

Date: March 4, 2025
Time: 11:00 a.m.
Department: 304

DECLARATION OF TARA ZABEHI

I, Tara Zabehi, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Erickson Martinez (“Plaintiff” or “Class Representative”) in the cases entitled *Erickson Martinez v. Back of the House, Inc., et al.*, San Francisco County Superior Court, Case No. CGC-21-594380, and *Erickson Martinez v. Back of the House, Inc., et al.*, Alameda County Superior Court, Case No. RG21113642, which were coordinated into the *Super Duper Burger Wage and Hour Cases*, San Francisco County Superior Court, Case No. CJC-22-005249. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. Since October 2008, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. The firm has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California. Below is a summary of the experience and qualifications of the attorneys at Lawyers *for* Justice, PC who most recently and primarily have been responsible for the representation of Plaintiff in connection with the resolution of above-captioned matter. Additional attorney and non-attorney staff have also worked on the above-captioned matter.

3. Arby Aiwazian is a Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from University of California, Los Angeles and graduated

1 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.
2 From approximately May 2007 to approximately July 1007, he served as a Judicial Extern to the
3 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
4 From approximately August 2008 to approximately December 2008, he served as a Judicial Extern
5 to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit.
6 He was admitted to practice law in California in 2010. He is admitted to practice before all courts
7 of the State of California and all United States District Courts in the State of California. He has
8 worked on many wage-and-hour class action and representative action cases, taking the lead in
9 taking and defending depositions, arguing motions, and attending mediations. He has played an
10 integral role in preparing matters for class certification, including and not limited to, successful
11 certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No.
12 BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No.
13 BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No.
14 RG13680477). Under his supervision, dozens of class action or representative cases have resulted
15 in settlements that have been granted court approval, including and not limited to, those listed in
16 paragraph 7 herein. He has worked on over one hundred (100) class action or representative action
17 cases which have resulted in settlement.

18 4. Joanna Ghosh is a Senior Member of Lawyers for Justice, PC. She received a
19 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
20 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
21 Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010)
22 and in New York (since 2013) and is also admitted to practice in all U.S. District Courts in
23 California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme
24 Court. She has taken and defended dozens of depositions and successfully handled motion practice
25 in class action cases regarding discovery (including and not limited to, regarding class contact
26 information), class certification (both contested class certification and stipulated class
27 certification), arbitration agreements, coordination, and intervention. She has successfully
28 handled briefing and oral argument on appeal, and obtained notable decisions regarding the Private

Attorneys General Act (“PAGA”) and employer efforts to compel arbitration of PAGA claims, e.g., *Betancourt v. Prudential Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019). She also has extensive experience with class action and/or representative action settlements. Under her and Arby Aiwazian’s supervision, the firm has handled the class certification and court approval process for hundreds of class action and/or representative action matters that have successfully resolved. She is a member of the California Employment Lawyers Association.

5. I am an attorney duly licensed to practice before all courts of the State of California and I am an attorney at Lawyers for Justice, PC. In May of 2016, I graduated from Pepperdine University School of Law with a Juris Doctorate degree. I have extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Certificate in Dispute Resolution program. In June of 2013, I obtained a Bachelor of Arts degree in History and graduated with college honors from University of California, Los Angeles. I attended Pepperdine School of Law starting in 2013 and graduated in 2016. From approximately August 2014 to approximately November 2014, I served as a Judicial Extern to the Honorable James Kaddo of the Los Angeles Superior Court. In 2017, I obtained a license to practice law from the California State Bar. Since 2017, I have worked at Lawyers for Justice, PC and my practice has almost exclusively focused on the prosecution of employment class actions and representative actions. At Lawyers for Justice, PC, I have worked on many wage-and-hour class action and representative action cases, taking the lead in taking and defending depositions, arguing motions, attending mediations, and preparing for trial. I have played an integral role in preparing matters for class certification, including and not limited to, successful certification of a class in *Davis v. Superior Med Surgical, Inc.* (San Bernardino County Superior Court Case No. CIVDS1505744), *Tellez v. Harvest Container Co., Inc.* (Tulare County Superior Court Case No. VCU64528), *Vilitchai v. Ametek Programmable Power, Inc., et al.* (San Diego County Superior Court Case No. 37-2015-00025968-CU-OE-CTL), and *Sanchez, et al. v. Auto-Chlor System of Washington, Inc.* (Los Angeles County Superior Court Case No. BC707670). I have worked on

over two hundred fifty (250) class action or representative action cases which have resulted in settlement.

**EXAMPLES OF RESULTS IN WAGE-AND-HOUR CLASS ACTION AND
REPRESENTATIVE ACTION CASES**

6. What follows are just a few examples of the type of results Lawyers *for* Justice, PC (“LFJ”) has achieved on behalf of its clients:

a) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a major property management company involving allegations of misclassification of various “manager” positions. On September 20, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC400414.

b) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of household items involving allegations of misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC413498.

c) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national property management company involving allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC430918.

d) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a bank, involving allegations of

1 misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court
2 granted final approval of the class and PAGA representative action settlement. The Kern County
3 Superior Court Case Number is S-1500-CV-273194-LHB.

4 f) LFJ, in association with co-counsel therein, represented the plaintiff in a
5 wage-and-hour class and PAGA representative action against a national wholesale distributor of
6 plumbing and builder supplies, involving allegations of misclassification of multiple salaried
7 “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA
8 representative action settlement. The Sacramento County Superior Court Case Number is 34-
9 2012-00136285.

10 g) LFJ, in association with co-counsel therein, represented the plaintiff in a
11 wage-and-hour class action against a multinational corporation that provides global workplace
12 solutions, involving allegations of misclassification of the “Operations Manager” position. On
13 September 16, 2014, the court granted plaintiff’s motion for class certification. The Los Angeles
14 County Superior Court Case Number is BC478769.

15 h) LFJ, in association with co-counsel therein, represented the plaintiff in a
16 wage-and-hour class and PAGA representative action against a national retailer of household
17 items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted
18 final approval of the class and PAGA representative action settlement. The San Francisco County
19 Superior Court Case Number is CGC-13-532344.

20 i) LFJ, in association with co-counsel therein, represented the plaintiff in a
21 wage-and-hour class and PAGA representative action involving allegations of misclassification of
22 the salaried residential “Property Manager” position. On September 17, 2015, the court granted
23 plaintiff’s motion for class certification. On October 20, 2017, the court granted final approval of
24 the class and PAGA representative action settlement. The Los Angeles County Superior Court
25 Case Number is BC474784.

26 j) LFJ, in association with co-counsel therein, represented the plaintiffs in a
27 wage-and-hour class and PAGA representative action against a national retailer of upscale
28 hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court

1 granted final approval of the class and PAGA representative action settlement. The Los Angeles
2 County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council
3 Coordination Proceeding Number is 4794.

4 k) LFJ, in association with co-counsel therein, represented the plaintiffs in a
5 wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf
6 of non-exempt employees. On August 5, 2016, the court granted final approval of the class action
7 settlement. The Los Angeles County Superior Court Case Number is BC488069.

8 l) LFJ, in association with co-counsel therein, represented the plaintiffs in a
9 wage-and-hour class action against a national retailer of apparel, accessories, and home products,
10 involving allegations of misclassification of the “Department Manager” position. On August 12,
11 2016, the court granted the plaintiffs’ motion for class certification in part and certified a class. On
12 August 6, 2019, the court granted final approval of the class action settlement. The Alameda
13 County Superior Court Case Number is RG13680477.

14 m) LFJ represented the plaintiff in a PAGA representative action against a real
15 estate and property management company, on behalf of non-exempt employees. On November 4,
16 2016, the court granted approval of the PAGA representative action settlement. The Orange
17 County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

18 n) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class and PAGA representative action against a full-service bank, on behalf of non-
20 exempt employees. On November 18, 2016, the court granted final approval of the class and
21 PAGA representative action settlement. The San Francisco County Superior Court Case Number
22 is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

23 o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
24 representative action against a foodservice distributor, on behalf of non-exempt employees. On
25 January 26, 2017, the court granted final approval of the class and PAGA representative action
26 settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

27 p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative
28 action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the

1 employer's motion to compel arbitration, which resulted in a published opinion by the California
2 Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply* (Cal.
3 App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S. Supreme Court
4 Docket No. 17-254). The Riverside County Superior Court Case Numbers are RIC1503952 and
5 RICJCCP5046, and the Judicial Council Coordination Proceeding Number is 5046.

6 q) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a consumer packaging company, on
8 behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class
9 and PAGA representative action settlement. The Los Angeles County Superior Court Case
10 Number is BC590429.

11 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
12 wage-and-hour class and PAGA representative action against a manufacturer of food service
13 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final
14 approval of the class and PAGA representative action settlement. The Orange County Superior
15 Court Case Number is 30-2015-00810013-CU-OE-CXC.

16 s) LFJ in association with co-counsel therein, represented the plaintiffs in a
17 wage-and-hour class and PAGA representative action against a lumber and hardware company on
18 behalf of non-exempt employees. On April 26, 2017, the court granted final approval of the class
19 and PAGA representative action settlement. The Orange County Superior Court Case Number is
20 30-2014-00747750-CU-OE-CXC.

21 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
22 representative action against a property management company, on behalf of non-exempt
23 employees. On June 14, 2017, the court granted final approval of the class and PAGA
24 representative action settlement. The Los Angeles County Superior Court Case Number is
25 BC586234.

26 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
27 representative action against a food company on behalf of non-exempt employees. On June 30,
28

1 2017, the court granted final approval of the class and PAGA representative action settlement. The
2 Sacramento County Superior Court Case Number is 34-2015-00175871.

3 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
4 representative action against a chocolate company on behalf of non-exempt employees. On July
5 19, 2017, the court granted final approval of the class and PAGA representative action settlement.
6 The Alameda County Superior Court Case Number is RG15764300.

7 w) LFJ firm represented the plaintiff in a PAGA representative action, against
8 the parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
9 October 18, 2017, the court granted approval of the PAGA representative action settlement. The
10 Los Angeles County Superior Court Case Number is BC569664.

11 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
12 representative action against a manufacturer of plastic containers on behalf of non-exempt
13 employees. On October 31, 2017, the court granted final approval of the class and PAGA
14 representative action settlement. The Los Angeles County Superior Court Case Number is
15 BC577233.

16 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
17 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
18 employees. On December 11, 2017, the court granted final approval of the class and PAGA
19 representative action settlement. The Los Angeles County Superior Court Case Number is
20 BC569646.

21 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
22 wage-and-hour class and PAGA representative action against a property management company
23 on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court granted final
24 approval of the class and PAGA representative action settlement. The Los Angeles County
25 Superior Court Case Number is JCCP4819 and the Judicial Council Coordination Proceeding
26 Number is 4819.

27 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
28 wage-and-hour class and PAGA representative action against a global provider of flexible office

1 space solutions. On February 15, 2018, the court granted final approval of the class and PAGA
2 representative action settlement. The Los Angeles County Superior Court Case Number is
3 BC498401.

4 bb) LFJ, in association with co-counsel therein, represents the plaintiff in a
5 wage-and-hour class action against a container manufacturer, on behalf of non-exempt employees.
6 On October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare
7 County Superior Court Case Number is VCU264528.

8 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
9 representative action against a behavioral health service provider on behalf of non-exempt
10 employees. On November 13, 2018, the court granted final approval of the class and PAGA
11 representative action settlement. The Alameda County Superior Court Case Number is
12 RG16811450.

13 dd) LFJ, in association with co-counsel therein, represented the plaintiff in a
14 PAGA representative action against a global provider of products and services to the energy
15 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the court
16 granted approval of the PAGA representative action settlement. The Kern County Superior Court
17 Case Number is S-1500-CV-280215-SDC.

18 ee) LFJ, in association with co-counsel therein, represents the plaintiff in a
19 wage-and-hour class action against a parking company on behalf of non-exempt employees. On
20 September 3, 2019, the court granted the plaintiff's motion for class certification and certified a
21 class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial
22 Council Coordination Proceeding Number is 4886.

23 ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a
24 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
25 employees. On September 27, 2019, the court granted the plaintiffs' motion for class certification
26 in part and certified a class. The Alameda County Superior Court Case Number is RG15757606
27 and the Judicial Council Coordination Proceeding Number is 4921.
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1 gg) LFI, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class and PAGA representative action against a national retailer of apparel and
3 fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted
4 the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the
5 court granted final approval of the class and PAGA representative action settlement. The
6 Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

7 hh) LFI, in association with co-counsel therein, represents the plaintiff in a
8 wage-and-hour class and PAGA representative action against a medical equipment supplier on
9 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
10 for class certification and certified a class. The San Bernardino County Superior Court Case
11 Number is CIVDS1505744.

12 ii) LFI, in association with co-counsel therein, represents the plaintiff in a
13 wage-and-hour class and PAGA representative action against a medical equipment supplier on
14 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
15 for class certification and certified a class. The San Bernardino County Superior Court Case
16 Number is CIVDS1505744.

17 jj) LFI, in association with co-counsel therein, on behalf of the plaintiff and
18 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
19 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
20 notable decision from the California Supreme Court clarifying the law regarding PAGA claims,
21 *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court granted approval
22 of the PAGA representative action settlement. The San Diego County Superior Court Case
23 Number is 34-2015-00175330.

24 kk) LFI, in association with co-counsel therein, represented the plaintiff in a
25 wage-and-hour class and PAGA representative action against a large national drug testing
26 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
27 plaintiff's motion for class certification and certified a class. On October 28, 2022, the court
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1 granted final approval of the class and PAGA representative action settlement. The San Diego
2 County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

3 ll) LFJ, in association with co-counsel therein, represents the plaintiffs in a
4 wage-and-hour class and PAGA representative action against a national retailer of sportswear,
5 footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the
6 court granted in part the plaintiff's motion for class certification and certified a class. The
7 Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the
8 Judicial Council Coordination Proceeding Number is 4930.

9 mm) LFJ, in association with co-counsel therein, represents the plaintiffs in a
10 wage-and-hour class and PAGA representative action against a plastic packaging company on
11 behalf of non-exempt employees. On June 8, 2020, the court granted in part the plaintiffs' motion
12 for class certification and certified a class. On November 8, 2021, the court granted approval of
13 the partial settlement of the action. The San Bernardino County Superior Court Case Number is
14 CIVDS1507361.

15 nn) LFJ, in association with co-counsel therein, represented the plaintiffs in a
16 wage-and-hour class action against manufacturer and supplier of power products and services on
17 behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion
18 for class certification and certified a class. On August 27, 2021, the court granted final approval
19 of the class action settlement. The San Diego County Superior Court Case Number is 37-2015-
20 00025968-CU-OE-CTL.

21 oo) LFJ represents the plaintiff in a wage-and-hour class action against a
22 nutritional products manufacturer on behalf of non-exempt production line employees. On
23 December 13, 2021, the court granted the plaintiff's motion for class certification in part and
24 certified a class. The Solano County Superior Court Case Number is FCS051001.

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INFORMATION ABOUT THE CASE AND REACHING THE SETTLEMENT

7. April 5, 2024, Plaintiff filed his Motion for Preliminary Approval of Class Action Settlement (“Motion for Preliminary Approval”) and supporting documents seeking preliminary approval of the Joint Stipulation of the Class Action and PAGA Settlement and Release (“Original Agreement”) entered into by and between Plaintiff, on the one hand, and Defendants Back of the House, Inc.; EBurger, LLC; JBurger, LLC; Mission 98 Super, LLC; MBurger, LLC; 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; KBurger, LLC; Adriano Paganini; and Edmondo Sarti (collectively, “Defendants”), on the other hand (collectively, the “Parties”).

8. On July 1, 2024, the Court issued a ruling wherein the Court raised points of inquiry regarding the Motion for Preliminary Approval and denied the motion without prejudice (“July 1, 2024 Order”). A true and correct copy of the July 1, 2024 Order is attached hereto as “**EXHIBIT 1.**”

9. Based on the Court’s guidance set forth in the July 1, 2024 Order, the Parties negotiated, approved, and executed the First Amended Joint Stipulation of the Class Action and PAGA Settlement and Release (“First Amended Settlement Agreement”) (together with the Original Agreement, “Settlement,” “Agreement,” or “Settlement Agreement”), a true and correct executed copy of which is attached hereto as “**EXHIBIT 2.**” A redline version of the First Amended Settlement Agreement showing how the terms of the Original Agreement have been revised, is attached hereto as “**EXHIBIT 3.**” The Parties and their counsel have approved the proposed Notice of Class Action Settlement (“Class Notice”), which is attached to the Settlement Agreement as “Exhibit A” and respectfully request that the Court approve it as well.

10. Based on information provided by Defendants, as of approximately September 9, 2024, the Class is estimated to consist of approximately 1,425 current and former employees who worked a total of 98,555 Workweeks during the Class Period, and the PAGA Group Members are estimated to consist of approximately 1,368 current and former employees who worked a total of 46,591 Pay Periods during the PAGA Period.

1 11. The effectiveness of Lawyers *for* Justice, PC (“Class Counsel”) in prosecuting this
2 matter has translated into tangible monetary benefits in the following respects: (1) Class Members
3 recover over a reasonably short period of time as opposed to waiting additional years for the same,
4 or possibly worse, result or possibly no recovery; (2) a guaranteed result that compares favorably
5 with other complex wage and hour class and/or representative action settlements of similar type
6 given the strengths and weaknesses of the cases; and (3) significant savings in attorneys’ fees
7 and/or costs that would have only increased significantly had the case progressed through
8 certification, trial, and/or appeals.

9 12. Class Counsel has litigated the case for over three (3) years and was actively
10 preparing the matter for class certification and trial. The Parties have engaged in extensive
11 settlement negotiations and participated in a Mandatory Settlement Conference (which Magaly
12 Olayo Lopez also participated in) before settlement officer Pang Ly. In the course of litigation
13 and in connection with the settlement discussions, the Parties exchanged extensive information
14 and engaged in discussions regarding their evaluations of the case and various aspects of the case,
15 including but not limited to, the risks and delays of further litigation, the risks to the Parties of
16 proceeding with class certification and/or representative adjudication, the law relating to off-the-
17 clock theory, meal and rest periods, PAGA representative actions, and wage-and-hour law and
18 enforcement, as well as the evidence produced and analyzed, and the possibility of appeals,
19 among other things. During all settlement discussions, the Parties conducted their negotiations at
20 arm’s length in an adversarial position. Arriving at a settlement that was acceptable to the Parties
21 was not easy. Defendants and their counsel felt strongly about their ability to prevail on the merits
22 and at certification, and Plaintiffs and Class Counsel believed that they would be able to obtain
23 class certification and prevail at trial. After conducting investigations, formal and informal
24 discovery, and exchange of information and extensive settlement negotiations the Parties have
25 agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff’s
26 principal claims, as well as the costs and risks to both sides that would attend further litigation.
27 The Settlement is a fair, reasonable, and adequate resolution of the Released Class Claims of
28 Plaintiff and Participating Class Members and of the Released PAGA Claims of Plaintiff,

Aggrieved Employees, and the State of California, against the Released Parties.

13. Prior to reaching the Settlement, Class Counsel investigated the veracity, strength, and scope of the claims, and was preparing the action for class certification and trial. Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of a large volume of documents and data obtained from Defendants, Plaintiffs, and other sources. Class Counsel served multiple sets of formal written discovery requests onto Defendants (specifically, Requests for Production of Documents, Form Interrogatories-General, and multiple sets of Special Interrogatories). Class Counsel also noticed and took the depositions of Defendants' two Person Most Knowledgeable designees. Further, Class Counsel defended the deposition of Plaintiff. The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiffs' employment records, putative class members' payroll and timekeeping records, Defendants' Employee Handbooks and relevant policies and procedures, Training Checklist, employee orientation materials, Meal Period Policy (including Meal Period Waivers), Meal and Rest Break Acknowledgment, Pandemic Prevention Plan, Job Descriptions, and Wage Statements, among other information and documents. Class Counsel also reviewed data compiled by Defendants' expert for mediation/settlement purposes, including an analysis of the individual work shifts that Class members worked. This data demonstrated a number of shifts that the Class members worked were under six hours or less. Class Counsel interviewed Plaintiff to gather facts and circumstances surrounding Plaintiff's and putative class members' employment and to identify potential witnesses. Counsel for the Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mandatory settlement conference. Class Counsel also drafted pleadings and prepared for and attended court proceedings and settlement negotiations, among other tasks.

14. Counsel for the Parties have also invested time researching and investigating the applicable law, which is constantly evolving as it relates to certification, representative PAGA claims, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement,

1 Plaintiff's claims and damages, and Defendants' defenses thereto, as well as facts discovered.
2 Based on Class Counsel's analysis, the result achieved in this litigation is fair, adequate, and
3 reasonable.

4 15. The Settlement provides for a Gross Settlement Amount of Eight Hundred Thousand
5 Dollars and Zero Cents (\$800,000.00). The Net Settlement Amount is the Gross Settlement
6 Amount less the following amounts subject to approval by the Court: Class Counsel Fees Payment
7 and Litigation Expenses Payment, Class Representative Service Payment, Settlement
8 Administration Expenses, and the PAGA Payment. Assuming that the amounts allocated under
9 the Settlement toward these payments are awarded by the Court, the Net Settlement Amount that
10 will be available for distribution to Participating Class Members is currently estimated to be Four
11 Hundred Twenty Thousand Eight Hundred and Thirty Three Dollars and Thirty Three Cents
12 Dollars (\$420,833.33). The Net Settlement Amount will be fully distributed in accordance with
13 the terms of the Settlement and there is no reversion to Defendants.

14 16. The Parties have agreed to retain CPT Group, Inc. ("Settlement Administrator") to
15 handle the notice and settlement administration process. The Parties respectfully request that the
16 Court appoint CPT Group, Inc. to handle these procedures and serve as the Settlement
17 Administrator. Defendants will provide the Settlement Administrator with a list of Class Members
18 that Defendants will diligently and in good faith compile from its records, which will include the
19 following most up-to-date information about each Class Member in an electronic format: (a) full
20 name; (b) last-known mailing address; (c) last known email address; (d) Social Security number;
21 (e) total number of Workweeks during the Class Period, (f) total number of Workweeks during
22 the PAGA Period; (g) such other information required by the Settlement Administrator in order to
23 effectuate the terms of the Settlement (collectively, "Class Data"), and the Settlement
24 Administrator will calculate each Class Member's estimated share of the Net Settlement Amount
25 ("Individual Settlement Share") and the amount of each PAGA Group Member's Individual
26 PAGA Payment based on his or her Workweeks during the PAGA Period ("Individual PAGA
27 Payment"). The Settlement Administrator will also be receiving opt-outs, objections, and disputes
28 regarding Workweeks (if any); translating, printing, mailing, e-mailing and tracking the Court-

1 approved Settlement Class Notice in English and Spanish after having updated the addresses in
2 the Class List via the National Change of Address Database maintained by the United States Postal
3 Service, performing customary and usual skip-traces on Class Notices returned as undeliverable,
4 hosting a website, calculating Individual Settlement Shares and Individual PAGA Payments,
5 preparing and mailing settlement checks, preparing any appropriate tax forms in connection with
6 the settlement payments and remitting those forms to the appropriate governmental agencies, and
7 other duties and responsibilities set forth to process the Settlement, and as requested by the Parties.
8 According to the Settlement Administrator, the Settlement Administration Costs are currently
9 estimated to be \$29,000.00, and out of an abundance of caution the Settlement Agreement provides
10 for Settlement Administration Expenses up to \$37,500.00 in case of additional unforeseen
11 expenses. Attached as “**EXHIBIT 4**” is an updated Settlement Administrator Estimate including
12 costs for mail notice, email notice, and hosting a website. The Settlement Administration Costs
13 will be paid out of the Gross Settlement Amount, subject to approval of the Court.

14 17. Based on investigation and information discovered, Class Counsel believes that
15 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
16 that Defendants, with respect to Plaintiff and the Class Members, *inter alia*, failed to properly pay
17 overtime and minimum wages, failed to provide compliant meal and rest periods and to pay
18 associated premium pay, failed to timely pay wages during employment and upon termination of
19 employment, failed to provide compliant wage statements, failed to maintain requisite payroll
20 records, and failed to reimburse necessary business expenses, and thereby engaged in unfair
21 business practices and conduct giving rise to civil penalties recoverable under the Private
22 Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq.*). Plaintiff also
23 asserted that Class Members were expected to perform similar job duties and were subject to the
24 same or similar operations and employment policies, practices, and procedures. Additionally,
25 Plaintiff asserted that Defendants’ recordkeeping practices with respect to Plaintiff, Class
26 Members, and PAGA Group Members, were substantially the same during the time period at issue.
27 As a result of said alleged uniform practices, Plaintiff claims that Class Members and PAGA
28 Group Members were uniformly not paid all of the compensation that was owed to them by

1 Defendants. Thus, in Class Counsel's view, it is clear that the outcome of this litigation would be
2 determined by Defendants' uniform operations and employment practices, policies, and
3 procedures that Plaintiff alleges applied across Defendants' hourly-paid or non-exempt employees
4 in California during the relevant time period.

5 18. Class Counsel is aware of the defenses and position of Defendants but believes that
6 Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff and Class
7 Counsel have also taken into account the uncertainty and risk of the outcome of further litigation,
8 and the difficulties and delays inherent in such litigation, including those involved in class
9 certification and/or representative adjudication. Plaintiff and Class Counsel further recognize the
10 burdens of proof necessary to establish liability for the claims asserted in the lawsuit, Defendants'
11 defenses, and the difficulties in establishing entitlement to monetary recovery. Plaintiff and Class
12 Counsel have also considered the Parties' settlement discussions, as well as the evaluations of the
13 settlement officer, who is experienced and well-regarded in complex labor and employment
14 matters.

15 19. Defendants, on the other hand, denied and continue to deny any liability and
16 wrongdoing of any kind associated with the allegations in the lawsuit, and further deny that the
17 lawsuit is appropriate for class treatment or representative adjudication for any purpose other than
18 the Settlement. Defendants believe that they would ultimately succeed in the matter. Both sides
19 have also had the opportunity to conduct investigations and gather documents and information
20 relating to Plaintiff, Class Members', and PAGA Group Members' employment with Defendants,
21 and Defendants' operations and employment policies, practices, and procedures. The Parties also
22 reviewed and analyzed a volume of documents and data as detailed above. The available
23 information enabled Class Counsel to assess and evaluate the potential value and merit of the
24 claims and Defendants' defenses thereto. Accordingly, the Parties have conducted adequate
25 investigation and discovery to be sufficiently informed of the nature and extent of the Class
26 Members' claims, and to enable both sides to evaluate the Settlement for its fairness, adequacy,
27 and reasonableness. The Settlement takes into account the strengths and weaknesses of each side's
28 position and the uncertainty of how the case might have concluded at certification, trial, and/or

1 appeals.

2 20. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
3 in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (currently estimated
4 to be \$266,666.67), which will be paid out of the Gross Settlement Amount, subject to approval
5 by the Court. It should be noted that Class Counsel has borne all of the risks and costs of litigation
6 and will not receive any compensation until recovery is obtained.

7 21. The Settlement Agreement provides for payment of up to Ten Thousand Dollars
8 (\$10,000.00) to Plaintiff as Class Representative Service Payment, to be paid out of the Gross
9 Settlement Amount subject to approval by the Court. Plaintiff spent considerable time and effort
10 to produce relevant documents and past employment records and to provide the facts and evidence
11 necessary to attempt to prove the allegations. Plaintiff was available whenever Class Counsel
12 needed him, actively tried to obtain information that would benefit the Class, and appeared for his
13 deposition. Accordingly, it is appropriate and just for Plaintiff to receive the Class Representative
14 Service Payment, in addition to his individual settlement payment, for his services on behalf of
15 the Class, PAGA Group Members, and the State of California.

16 22. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is
17 in the best interests of Plaintiff, the Class, and the State of California. Class Counsel further
18 submits that the Settlement is within an acceptable range of recovery for this type of litigation
19 given the strengths and weaknesses of the case, the inherent costs and risks of further litigation,
20 and the costs and risks associated with class certification, representative adjudication, trial, and/or
21 appeals.

22 **ESTIMATE OF THE VALUE OF THE CLAIMS**

23 23. By way of the July 1, 2024 Order, the Court requested the Parties provide a
24 description of the value of the claims pursuant to *Kullar v. Foot Locker*, 168 Cal.App.4th 116.

25 24. By way of the above-captioned actions, Plaintiff alleged that Defendants have
26 violated the California Labor Code and Industrial Welfare Commission Wage Orders by engaging
27 in a uniform policy and systematic scheme of wage abuse against Plaintiff and the putative class
28 members, including *inter alia*, failing to properly compensate overtime and minimum wages,

1 failing to provide compliant meal and rest periods and associated premium pay, failing to timely
2 pay wages during employment, failing to timely pay wages upon termination and associated
3 waiting-time penalties, failing to provide compliant wage statements, failing to maintain requisite
4 payroll records, and failing to reimburse necessary business expenses. Plaintiff further contends
5 that Defendants' aforementioned conduct constitutes unfair business practices under the California
6 Business and Professions Code ("UCL") and gives rise to civil penalties recoverable under PAGA.

7 25. Based on data provided by Defendants, the total number of putative class members
8 during the period from September 16, 2015 to September 9, 2024 was estimated to be
9 approximately one thousand four hundred and twenty-five (1,425) individuals who worked a total
10 of ninety-eight thousand five hundred and fifty-five (98,555) workweeks with an average hourly
11 rate of pay of approximately \$16.64.¹

12 26. Plaintiff contended that Defendants required putative class members to perform
13 work before clocking-in and after clocking-out of their scheduled shifts and during meal and rest
14 periods. Plaintiff contended that Defendants discouraged the recordation of overtime hours and
15 required putative class members to perform work off-the-clock. Plaintiff also contended that meal
16 and rest periods were regularly missed, late, shortened, and/or interrupted, and that Defendants
17 failed to properly pay premiums for all non-compliant rest periods and all non-compliant meal
18 periods. Additionally, Plaintiff alleged that Defendants intentionally and willfully failed to pay
19 Plaintiff and putative class members all wages due to them while they were employed by
20 Defendants, within the time period permissible under California law, and that Defendants failed
21 to pay all wages due upon termination, within the time period permissible under California law,
22 thereby triggering waiting-time penalties under California Labor Code section 203. Plaintiff
23 contended that, based on the violations described herein, the wage statements provided by
24 Defendants and the payroll records kept by Defendants were inaccurate. Finally, Plaintiff
25 contended that Defendants failed to reimburse Plaintiff and the other putative class members for
26 necessary business expenses, e.g. for use of personal cell phones for work purposes, purchasing
27

28 ¹ This figure was calculated based on the average hourly pay from three separate periods of time provided by Defendants using a weighted average calculation.

1 office supplies, mileage for use of personal vehicles.

2 27. Class Counsel considered defense arguments, e.g., that the employer's practices,
3 policies, and procedures complied with the law, that Defendants paid putative class members over
4 the California minimum wage for all hours worked, that Defendants correctly paid overtime for
5 all overtime hours worked, that no waiting-time penalties were due because waiting-time penalties
6 only arise from "willful" failure to pay wages due and owing at the time of termination or
7 resignation, that Plaintiff and putative class members suffered no actual injury from the alleged
8 wage statement violations and that this alleged violation and the alleged recordkeeping violation
9 are entirely derivative of the other causes of action, and that Defendants had a practice and
10 procedure for reimbursing employees for necessary business-related expenses and did not require
11 employees to undertake expenses that were not reimbursed. Class Counsel also considered the
12 likelihood of Plaintiff's success in establishing that any of provisions of the California Labor Code,
13 on which the civil penalties under PAGA and the UCL claim are predicated, were violated and
14 that such violations were injurious and/or warranted imposition of civil penalties. Class Counsel
15 also considered that trial courts have wide discretion when assessing penalties under PAGA, and
16 that it could be determined that individual liability issues predominate (e.g., due to purported
17 variation in shifts, locations, job duties, and other circumstances which could raise individualized
18 questions of fact) and could pose challenges to certification, manageability, and the merits of
19 Plaintiff's claims.

20 28. Class Counsel considered information obtained through investigations and from
21 Plaintiff, as well as class data and information obtained from Defendants and other sources, and
22 created violation, damages, and penalties valuations and models prior to reaching the Settlement.
23 Based thereon, Plaintiff calculated the potential value of the claims. However, the potential value
24 of each claim assumed an exposure based on the case having been certified and Plaintiff having
25 proven all elements of the claims and entitlement to monetary recovery, despite risks associated
26 with obtaining and maintaining class certification, demonstrating manageability, and establishing
27 liability and any underlying California Labor Code violations and damages, and significant
28 additional costs that would have to be incurred in order to certify the case and establish liability

1 and damages. Plaintiff also faced the risk of the Court finding that individualized issues
2 predominate, such that the action is not suitable for class treatment or representative adjudication.
3 While Class Counsel disagreed with Defendants' arguments and factual contentions, Plaintiff
4 recognized the circumstances and realities of the case, applicable case law and regulations, the
5 costs and expenses of further litigation and certification, and risks to recovery, and applied
6 appropriate discounts for them. Class Counsel calculated the potential and realistic values of the
7 claims as follows:

8 a. Failure to Pay Overtime and Minimum Wages

9 i. Plaintiff alleged that Defendants failed to pay overtime and minimum wages
10 as a result of Defendants' purported uniform policies, practices, and procedures that required
11 putative class members to perform work during meal periods and before clocking-in and after
12 clocking-out. Plaintiff also contended that Plaintiff and other putative class members were
13 required to obtain pre-approval prior to working overtime, in order to be paid for work in excess
14 of their scheduled work hours. As a result, Plaintiff contended that Defendants failed to properly
15 compensate Plaintiff and putative class members all wages due to them, at their applicable
16 minimum or overtime rates for all of the hours that they worked.

17 ii. The potential value of the overtime claim was estimated to be \$2,459,932.80
18 (98,555 workweeks x 1 hour of unpaid overtime wages x overtime hourly rate of \$24.96, which is
19 based on the average hourly rate of \$16.64). The potential value of the minimum wage claim was
20 estimated to be \$1,639,955.20 (98,555 workweeks x 1 hour of unpaid minimum wages x average
21 hourly rate of \$16.64).

22 iii. With respect to the overtime claim, at this juncture, a discount of 55% was
23 applied to account for the risks associated with obtaining and maintaining class certification
24 (bringing the value of this claim closer to \$1,106,969.76), a discount of 65% was applied to
25 account for the risks associated with succeeding on the merits and establishing liability (bringing
26 the value of this claim closer to \$387,439.42), and a discount of 85% was applied to account for
27 the risks associated with proving the extent of damages and obtaining an award thereof (bringing
28 the value of this claim closer to \$58,115.91). Also with respect to the minimum wage claim, at

1 this juncture, a discount of 55% was applied to account for the risks associated with obtaining and
2 maintaining certification (bringing the value of this claim closer to \$737,979.84), a discount of
3 65% was applied to account of the risks associated with succeeding on the merits and establishing
4 liability (bring the value of this claim closer to \$258,292.94), and a discount of 85% was applied
5 to account for the risks associated with proving the extent of damages and obtaining an award
6 thereof (bringing the value of this claim closer to \$38,743.94)

7 b. Failure to Provide Compliant Meal Periods and Associated Premiums:

8 i. Plaintiff alleged that Defendants failed to provide timely, full, and/or
9 uninterrupted meal periods. For example, Plaintiff contended that he and other putative class
10 members regularly suffered short, late, interrupted, and missed meal periods because they had to
11 perform work during meal periods, as a result of heavy workloads and expectations to continue
12 work duties. Plaintiff and other putative class members reported that they could only go on lunch
13 when their supervisor told them they could go, which often meant foregoing a meal break entirely
14 if it was busy. Plaintiff further contended that Defendants failed to pay meal period premiums for
15 missed, late, short, or interrupted meal periods.

16 ii. The potential value of this claim was estimated to be \$1,639,955.20 (98,555
17 workweeks x 1 meal period premiums x average hourly rate of \$16.64). At this juncture, a
18 discount of 55% was applied to account for the risks associated with obtaining and maintaining
19 class certification (bringing the value of this claim closer to \$737,979.84), a discount of 65% was
20 applied to account for the risks associated with succeeding on the merits and establishing liability
21 (bringing the value of this claim closer to \$258,292.94), and a discount of 85% was applied to
22 account for the risks associated with proving the extent of damages and obtaining an award thereof
23 (bringing the value of this claim closer to \$38,743.94).

24 c. Failure to Provide Compliant Rest Periods and Associated Premiums:

25 i. Plaintiff alleged that Defendants failed to provide putative class members
26 with timely, full, and/or uninterrupted rest periods. Plaintiff contended that Defendants'
27 employment and operations policies, practices, and procedures required putative class members
28 to perform job duties during their rest periods and prevented them from regularly receiving

compliant rest periods in part due to heavy workloads.

ii. Based on Plaintiff's counsel's investigations, putative class members reported that the rest period claim centered on the following issues: Defendants implemented a practice of discouraging putative class members from taking rest breaks in order to remain readily available to assist with operational needs, and rest periods were missed, shortened, interrupted, or delayed because putative class members were required to keep up with the demands of the business.

iii. The potential value of this claim was estimated to be \$4,919,865.60 (98,555 workweeks x 3 rest period premiums x average hourly rate of \$16.64). At this juncture, a discount of 55% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$2,213,939.52), a discount of 70% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim closer to \$664,181.86), and a discount of 85% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$99,627.28).

d. Failure to Timely Pay Wages:

i. Plaintiff contended that, as a result of the aforementioned alleged wage-and-hour violations, Defendants also intentionally and willfully failed to timely pay Plaintiff and putative class members all wages due to them during employment. The allegation of untimely payment of wages during employment, under California Labor Code sections 204 and 210, is considered and valued as part of the PAGA claim discussed below. Plaintiff also contended that Defendants intentionally and willfully failed to pay Plaintiff and putative class members all wages due to them upon termination, within the time period permissible under California law, thereby triggering waiting-time penalties under California Labor Code section 203. Based on information and data provided by Defendants, it was estimated that approximately 1,038 putative class members had been terminated during the three-year statute of limitations, (i.e., from September 16, 2016). Assuming that these individuals were not timely paid all wages due to them upon termination, the potential value of waiting-time penalties was estimated to be \$4,145,356.80

collectively (1,038 individuals x [30 days x hourly rate of \$16.64 x 8 hours]), or approximately \$3,993.60 per individual. However, this presumes that Plaintiff would prevail on the underlying California Labor Code claims and in establishing that the violations were “willful,” which is necessary to show that Defendants owe waiting-time penalties. At this juncture, a discount of 55% was applied to account for the risks associated with obtaining and maintaining certification (bringing the value of the claim closer to \$1,865,410.56), a discount of 70% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim closer to \$559,623.17), and a discount of 85% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$83,943.48).

e. Wage Statement Violations:

i. Plaintiff alleged that Defendants violated California Labor Code section 226(a) which states that an employer must provide an accurate and itemized wage statement twice a month or each time wages are paid, whichever is the more frequent. Plaintiff’s wage statement claim is largely derivative of the allegations that Defendants failed to accurately account for all hours worked by, and pay all compensation due to, putative class members, e.g., the claims for unpaid wages, meal violations, and rest violations.

ii. Based on information and data provided by Defendants, it was estimated that approximately 1,359 putative class members worked during the one-year statutory limitations period (i.e., from September 16, 2018). The potential value of this claim was calculated to be \$4,252,050.00 ([\$50.00 initial violation penalty x 1359 initial violations] + [\$100.00 subsequent violation penalty x 41,841 subsequent violations (43,200 Pay periods during one year statutory limitations period – 1359)]). At this juncture, a discount of 55% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$1,913,422.50), a discount of 65% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim closer to \$669,697.88), and a discount of 85% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to

1 \$100,454.68).

2 f. Failure to Maintain Payroll Records:

3 i. Plaintiff's payroll records claim is derivative of the allegations that
4 Defendants failed to accurately account for all hours worked by, and pay all compensation due to,
5 putative class members, e.g., the claims for unpaid wages, meal violations, and rest violations.
6 Arguably, civil penalties would only be recoverable by the Labor Commissioner, therefore, the
7 value of this claim is considered and valued as part of the PAGA claim discussed below.

8 g. Failure to Reimburse Necessary Business Expenses:

9 i. Plaintiff contends that Defendants failed to reimburse Plaintiff and the other
10 putative class members for necessary business expenses.

11 ii. Based on Class Counsel's investigations and analysis, putative class
12 members reported that the expense reimbursement claim centered on the following issues: Plaintiff
13 and putative class members had to purchase clothing, and non-slip shoes to comply with
14 Defendants' dress code policies.

15 iii. The potential value of this claim was estimated to be \$118,266.00 (98,555
16 workweeks x \$1.20 unreimbursed business expenses). At this juncture, a discount of 55% was
17 applied to account for the risks associated with obtaining and maintaining class certification
18 (bringing the value of this claim closer to \$53,219.70), a discount of 65% was applied to account
19 for the risks associated with succeeding on the merits and establishing liability (bringing the value
20 of this claim closer to \$18,626.90), and a discount of 85% was applied to account for the risks
21 associated with proving the extent of damages and obtaining an award thereof (bringing the value
22 of this claim closer to \$2,794.03).

23 h. PAGA Penalties:

24 i. Plaintiff contended that Defendants' above-discussed alleged conduct,
25 namely, failure to pay for all hours worked, provide compliant meal and rest periods, timely pay
26 wages during employment and upon termination of employment, reimburse expenses, maintain
27 payroll records, etc., gave rise to civil penalties recoverable under the Private Attorneys General
28 Act, California Labor Code section 2698, *et seq.* The amount of civil penalties at issue, which the

1 Court could determine whether or not to assess and whether or not to reduce based on the facts
2 and circumstances of the case (to avoid an award that is unjust, arbitrary and oppressive, or
3 confiscatory, pursuant to California Labor Code section 2699(e)(2)), were estimated to be
4 approximately \$2,667,600.00 (1,368 estimated aggrieved employees x \$1,950 civil penalties). At
5 this juncture, a discount of 55% was applied to account for the risks associated with establishing
6 manageability and possible bifurcation of discovery and/or trial (bringing the value of this claim
7 closer to \$1,200,420.00), a discount of 70% was applied to account for the risks associated with
8 succeeding on the merits and establishing violations warranting the imposition of penalties
9 (bringing the value of this claim closer to \$360,126.00), and a discount of 85% was applied to
10 account for the risks associated with proving the extent of penalties that should be assessed and
11 the Court's possible discretionary reduction of the amount of penalties imposed (bringing the value
12 of this claim closer to \$54,018.90).

13 i. Total Value

14 i. The potential total value of this case is \$21,842,981.60. After discounting
15 for the risks associated with obtaining and maintaining class certification and PAGA
16 manageability, the potential total value is closer to \$9,829,341.72. After discounting for the risks
17 associated with succeeding on the merits and establishing liability, the potential total value is
18 closer to \$3,176,281.10. After discounting for the risks associated with proving the extent of
19 damages and obtaining an award thereof, the total potential value is closer to \$476,442.16.

20 ii. The foregoing discussion confirms that the amount of the Settlement is
21 adequate in light of Plaintiff's allegations and causes of action, the evidence at issue with respect
22 to those allegations and causes of action, and legal and factual arguments and circumstances which
23 pose challenges to class certification, manageability, merits, and monetary recovery. The
24 conclusion to be drawn from the foregoing analysis is that neither class certification,
25 manageability, liability, nor the ability to adjudicate and/or recover monetary relief on a class-
26 wide or representative basis is clear-cut, which is why the Parties elected to settle this matter.
27 Class Counsel recognized the significant costs and expenses associated with further litigation and
28 the present value of obtaining a settlement now as opposed to a potential monetary recovery that

may be obtained in the future after further litigation. Class Counsel recognized the circumstances and realities of the case, applicable case law and regulations, and risks to recovery and applied appropriate discounts

NOTICE PROCESS

29. In the July 1, 2024 Order, the Court raised the following issues regarding the notice process: (July 1, 2024 Order, Section ¶ III.B.)

a. Email Notice. The Court requested that the Parties amend the agreement to include email notice, where email addresses are available. (July 1, 2024 Order, ¶ III.B.) The Parties requested an updated estimate from the Settlement Administrator to include this cost (“Updated Settlement Administrator Estimate”). A true and correct copy of the Updated Settlement Administrator Estimate is attached hereto as “**EXHIBIT 4.**” The Settlement Agreement modifies the definition of “Class Data” to include last-known email addresses of Class Members, modifies the notice procedure to include email notice, and updates the Settlement Administration Costs. (Settlement Agreement, ¶ I.F.)

b. Settlement Website. The Court also required the Settlement Administrator to host a settlement website. (July 1, 2024 Order, Section ¶ III.B). The Parties requested an updated estimate from the Settlement Administrator to include this cost. The Settlement Agreement includes the addition of the settlement website and updates the Settlement Administration Costs based on this addition. (Settlement Agreement, ¶¶ V.D.2.f; V.B.4) The revised Class Notice does the same. (Class Notice, §§ III.A and VI.)

c. Objections, Requests for Exclusions, and Workweek Disputes by Email. The Court directed the Parties to amend the agreement and Class Notice to allow Class Members to submit objections, requests to exclusions, and workweek disputes via email as physical mail. (July 1, 2024 Order, ¶ III.B.) The Parties requested an updated estimate from the Settlement Administrator to include this cost. (Updated Settlement Administrator Estimate.) The Settlement Agreement includes the ability for class members to submit objections, requests to exclusions, and workweek disputes via physical mail and email and updates the Settlement Administration Costs. (Settlement Agreement, ¶¶ V.D.3) The revised Class Notice does the same. (Class Notice, §§

1 III.A-B and IV.B-C.)

2 **SETTLEMENT ADMINISTRATOR ESTIMATE**

3 30. By way of the July 1, 2024 Order, the Court requested the most recent estimate, bid,
4 or invoice from the Settlement Administrator, CPT Group, Inc. (July 1, 2024 Order, Section V.).
5 The Updated Settlement Administrator Estimate, *supra* Exhibit 4, includes the costs for mail and
6 email notice, costs for hosting a settlement website, and expressly states the costs are “not to
7 exceed” the total amount in the estimate, per the Court’s request.

8 **NOTICE TO THE LWDA**

9 31. By way of the July 1, 2024 Order, the Court directed Plaintiff to submit a copy of
10 the settlement agreement to the Labor and Workforce Development Agency (“LWDA”). (July 1,
11 2024 Order, ¶ III.A.) Plaintiff has submitted the original settlement agreement and amended
12 Settlement Agreement to the LWDA. Confirmation of these submissions are attached hereto as
13 “EXHIBIT 5.”

14 I declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Executed on this 31st day of January 2025, at Glendale, California.

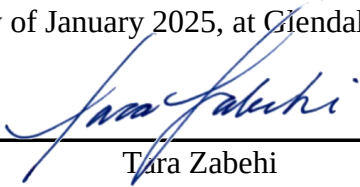
17 
18 _____
19 Tara Zabehi

EXHIBIT 1

FILED
San Francisco County Superior Court



JUL 1 2024

CLERK OF THE COURT
BY: [Signature] Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

COORDINATION PROCEEDING
SPECIAL TITLE [RULE 3.550]

Case No. CGC-22-005249
JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5249

**SUPER DUPER BURGERS WAGE AND
HOUR CASES**

INCLUDED ACTIONS:

ORDER DENYING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT WITHOUT
PREJUDICE

Martinez v. Back of the House, Inc., et al., No.
RG21113642 (Alameda County Super. Ct.)

Lopez v. Back of the House, Inc., et al., No. CGC-
19-579264 (San Francisco County Super. Ct.)

Martinez v. Back of the House, Inc., et al., No.
CGC-21-594380 (San Francisco County Super.
Ct.)

Plaintiff's Motion for Preliminary Approval of Class Action Settlement was set for hearing on July 1, 2024. The Court circulated a written tentative ruling in advance of the hearing to which the parties stipulated. Accordingly, the Court hereby adopts its tentative ruling. Plaintiff's Motion for Preliminary Approval of Class Action Settlement is denied without prejudice.

1 **I. Settlement Class Certification**

2 Before granting preliminary approval, a court must determine that the proposed settlement
3 presents a proper class for settlement purposes. In general, “[t]he party advocating class treatment must
4 demonstrate the existence of an ascertainable and sufficiently numerous class, a well-defined community
5 of interest, and substantial benefits that render proceeding as a class superior to the alternatives.” (*Brinker*
6 *Restaurant Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004, 1021; Code Civ. Proc. § 382.) In the settlement
7 context, class certification is properly subjected to a lesser standard of scrutiny because: (1) to the extent
8 the class certification requirements are designed to keep a lawsuit manageable for trial, that purpose is
9 inapposite in the settlement context; and (2) to the extent the class certification requirements are designed
10 to protect the interests of non-representative class members, that purpose is addressed through the Court’s
11 fairness analysis. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1494, 1807, n.19.)

12 Here, Plaintiff Martinez fails to show the proposed settlement presents a proper class for
13 settlement purposes. First, the “Class” is defined as “all current and former hourly-paid or non-exempt
14 employees who worked for any of the Defendants or Employers at a Super Duper Burgers restaurant
15 within the State of California at any time during the Class Period, *except for those employees who entered*
16 *into releases of the claims asserted in the Action prior to full execution of the Parties’ Memorandum of*
17 *Understanding.*” (Madoyan Decl. Ex. 1 § I.B (emphasis added); see also *id.* at Ex. 1 § I.X [defining
18 “PAGA Group Members”].) Plaintiff Martinez provides no explanation regarding the employees who
19 entered into releases of the claims asserted in the proceeding prior to the execution of the Memorandum
20 of Understanding. In any renewed motion, Plaintiff Martinez must provide the Court with a copy of the
21 release of claims and address: (1) the number of putative class members who entered into releases of
22 claims prior to execution of the Memorandum of Understanding; (2) the scope of the releases; (3) when
23 the releases were executed; (4) the circumstances under which Defendants obtained the releases; and (5)
24 whether those putative class members received a monetary payment in exchange for a release of claims,
25 and if so, the total amount of those payments.

26 Second, the Declaration of Erickson Martinez does not set forth specific facts to support a finding
27 of typicality and adequacy. Rather, his declaration details his efforts pursuing this case to support his
28

1 request for an incentive award. (See, e.g., Martinez Decl. ¶¶ 2-8.)

2 **II. Fairness**

3 In order to determine whether a proposed class action settlement is fair and reasonable, a trial
4 court “should consider relevant factors, such as the strength of plaintiffs’ case, the risk, expense,
5 complexity and likely duration of further litigation, the risk of maintaining class action status through
6 trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings,
7 the experience and views of counsel, the presence of a governmental participant, and the reaction of the
8 class members to the proposed settlement.” (*Dunk*, 48 Cal.App.4th at 1801.) “The most important factor
9 is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.”
10 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.) An initial presumption of fairness
11 exists if certain factors are present, but “an informed evaluation cannot be made without an understanding
12 of the amount that is in controversy and the realistic range of outcomes of the litigation.” (*Id.* at 120;
13 accord, *Muñoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409 [*Kullar*
14 does not mandate “an explicit statement of the maximum amount the plaintiff class could recover if it
15 prevailed on all its claims,” but it does require “a record which allows ‘an understanding of the amount
16 that is in controversy and the realistic range of outcomes of the litigation.’”]; *Clark v. American*
17 *Residential Services LLC* (2009) 175 Cal.App.4th 785, 790, 801-803 [vacating order approving settlement
18 of wage and hour settlement where trial court lacked sufficient information to make an informed
19 evaluation of the fairness of the settlement].)

20 Likewise, a trial court charged with reviewing and approving a PAGA settlement (Lab. Code §
21 2699(I)(2)) should evaluate a PAGA settlement “to determine whether it is fair, reasonable, and adequate
22 in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize
23 enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77; see also
24 *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 542-543 [reviewing PAGA
25 portion of class action settlement to determine its fairness].)

26 Here, the record before the Court is grossly deficient regarding the fairness of the settlement such
27 that the motion must be denied. Plaintiff Martinez’s motion, including counsel’s declaration, provides no
28

1 substantive, non-boilerplate analysis under *Kullar*. Indeed, there is no discussion whatsoever of
2 Defendant's realistic exposure or Plaintiff Martinez's valuation of the claims, let alone the overall value
3 of the case. Additionally, Plaintiff Martinez includes only a boilerplate, non-specific discussion regarding
4 the settlement discount. (See Madoyan Decl. ¶¶ 17-18.) The Court cannot evaluate the fairness of a
5 settlement in the dark. In any renewed motion, Plaintiff Martinez must include: (1) a detailed and
6 substantive *Kullar* analysis; (2) the total value of the case, calculated either on a maximum or realistic
7 exposure basis; (3) the estimated value of each claim, the calculation(s) for each claim, and the factual
8 bases for the assumptions in each calculation; and (4) a substantive discussion regarding the bases for any
9 settlement discount.

10 Furthermore, the Gross Settlement Amount is subject to an escalator clause. That clause states in
11 pertinent part:

12 If it is determined that the total number of Class Members from September 16, 2015 through
13 September 11, 2023 is more than 10% above 3,086 (i.e. exceeds 3,395), or the number of
14 Workweeks worked by Class Members during the Class Period is more than 10% above 103,252
15 (i.e. exceeds 113,577), then Defendants will have the option to increase the Gross Settlement
16 Amount on a *pro rata* basis based on either the number of individuals or Workweeks in excess of
17 ten percent (10%). If Defendants decline to exercise their option to increase the Gross Settlement
18 Amount as provided herein, Plaintiff and Defendants shall have the right to rescind this
19 Agreement and the Parties shall be returned to their respective positions prior to this Agreement.

20 (Madoyan Decl. Ex. 1 § IV.C.5.) The escalator clause places control over the settlement in Defendants'
21 hands in the event the escalator clause is triggered. In particular, Defendants can either agree to increase
22 the Gross Settlement Amount or the settlement agreement can be rescinded. The Court will not approve
23 such a provision. Defendants' interests are adequately preserved by the provision that allows them to
24 void the settlement agreement in the event that ten percent or more of the class members opt out. (*Id.* §
25 IV.D.4.)

26 **III. Notice**

27 **A. Notice to LWDA**

28 Plaintiff Martinez failed to comply with Labor Code section 2699(l)(2), which requires that the
plaintiff submit a copy of the proposed settlement to the Labor and Workforce Development Agency
("LWDA"), concurrently with filing the instant motion.

1 **B. Notice Process**

2 The settlement agreement solely contemplates mail notice. (Madoyan Decl. Ex. 1 § IV.D.2.b; see
3 also *id.* at Ex. 1 § I.F [“Class Data” includes last-known mailing addresses].) The Court will not approve
4 a settlement where only mail notice is required. Additionally, the Court will not approve a settlement
5 whereby class members must submit requests for exclusions, objections, and workweek disputes by mail
6 only. In any renewed motion, the settlement agreement must: (1) provide for both mail notice and email
7 notice where email addresses are available as well as a settlement website; (2) allow class members to
8 submit requests for exclusion, objections, and workweek disputes by mail and email.

9 **IV. PAGA Release**

10 The “Released PAGA Claims” include “any and all causes of action that were alleged in the
11 operative Complaint and *Martinez* and *Lopez* LWDA Letters, or reasonably could have been alleged
12 based on the factual allegations contained in the operative Complaint and *Martinez* and *Lopez* LWDA
13 Letters, arising during the PAGA Period.” (Madoyan Decl. Ex. 1 § I.EE.) “PAGA’s statutory scheme
14 and the principles of preclusion allow, or ‘authorize,’ a PAGA plaintiff to bind the state to a judgment
15 through litigation that could extinguish PAGA claims that were not specifically listed in the PAGA notice
16 where those claims involve the same primary right litigated. Because a PAGA plaintiff is authorized to
17 settle a PAGA representative action with court approval (§ 2699, (I)(2)), it logically follows that he or she
18 is authorized to bind the state to a settlement releasing claims commensurate with those that would be
19 barred by res judicata in a subsequent suit had the settling suit been litigated to judgment by the state.”
20 (*Moniz*, 72 Cal.App.5th at 83.) Here, the settlement agreement purports to release claims raised in
21 Plaintiff Lopez’s LWDA letters. However, Plaintiff Lopez is not a party to the settlement, although she is
22 named as a Plaintiff in the Consolidated Class Action Complaint. In any renewed motion, Plaintiff
23 Martinez must address whether the Court may approve a proposed class action settlement in which all
24 named plaintiffs have not joined and whether the Court can approve a release that includes claims
25 preserved in Plaintiff Lopez’s LWDA letters when Plaintiff Lopez is not a party to the settlement.

26 **V. Settlement Administrator**

27 Plaintiff Martinez failed to include the most recent bid, estimate, or invoice from CPT Group, Inc.
28

1 The Court will not appoint a settlement administrator in the absence of a recent, bid, estimate, or invoice
2 from the proposed settlement administrator. In any renewed motion, Plaintiff Martinez must include the
3 most recent bid, estimate, or invoice from CPT Group, Inc. with a "not to exceed" amount that includes
4 the cost of emailing class notice and establishing and maintaining a settlement website.

5 IT IS SO ORDERED.

6
7 Dated: July 2, 2024



8 Ethan P. Schulman
9 Judge of the Superior Court
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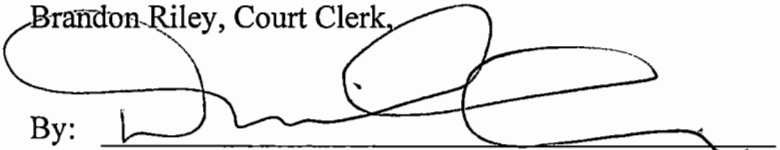
CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, DANIAL LEMIRE, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On **JUL 2 - 2024**, I electronically served THE ATTACHED DOCUMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: **JUL 2 - 2024**

Brandon Riley, Court Clerk,

By: 

DANIAL LEMIRE, Deputy Clerk

EXHIBIT 2

**FIRST AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND RELEASE**

This First Amended Joint Stipulation of Class Action and PAGA Settlement Agreement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”) is made by and between Plaintiff Erickson Martinez (“Plaintiff”) and Defendants Back of the House, Inc.; EBurger, LLC; JBurger, LLC; Mission 98 Super, LLC; MBurger, LLC; 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; KBurger, LLC; Adriano Paganini; and Edmondo Sarti (collectively, “Defendants”) (together, with Plaintiff, the “Parties” or individually referred to as “Party”). Pursuant to Section IV.H, Paragraph D of the Joint Stipulation of Class Action and PAGA Settlement Agreement and Release executed on April 3, 2024, upon full execution of this Settlement Agreement, Parties hereby amend and supplant the Joint Stipulation of Class Action and PAGA Settlement Agreement and Release.

This Settlement Agreement shall be binding on Plaintiff, Participating Class Members (as defined below), PAGA Group Members (as defined below), the State of California (as set forth herein), and on Defendants and Employers (as defined below), subject to the terms and conditions hereof and approval of the Court.

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

A. “Action” means the coordinated action entitled *Super Duper Burgers Wage and Hour Cases* in the Superior Court of the State of California for the County of San Francisco, Case No. CJC-22-005249 and Judicial Council Coordination Proceeding No. 5249, which expressly includes the following actions: (1) *Erickson Martinez v. Back of the House, Inc., et al.*, Case No. CGC-21-594380 filed in the Superior Court of the State of California, County of San Francisco; (2) *Erickson Martinez v. Back of the House, Inc., et al.*, Case No. RG21113642 filed in the Superior Court of the State of California, County of Alameda; and (3) *Magaly Olayo Lopez v. Back of the House, Inc., et al.*, Case No. CGC-19-579264 filed in the Superior Court of the State of California, County of San Francisco.

B. “Class” means all current and former hourly-paid or non-exempt employees who worked for any of the Defendants or Employers at a Super Duper Burgers restaurant within the State of California at any time during the Class Period.

C. “Class Member” means a member of the Class.

D. “Class Counsel” means Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh, and Tara Zabeih of Lawyers *for* Justice, PC.

E. “Class Counsel Fees Payment” and “Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for attorneys’ fees and reimbursement of litigation expenses, respectively, as approved by the Court, to compensate them for their legal work in connection with the Action, including their pre-filing investigation, filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses incurred in connection with the Action.

F. “Class Data” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator. The Class Data will be formatted in a readable Microsoft Office Excel spreadsheet and will include each Class Member’s full name, last known mailing address, last known email address, Social Security Number, total number of Workweeks during the Class Period, total number of Workweeks during the PAGA Period, and any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement.

G. “Class Notice” means the Notice of Class Action Settlement, substantively in the form attached hereto as **Exhibit A** to this Agreement and incorporated by reference into this Agreement.

H. “Class Period” means the period from September 16, 2015 through March 4, 2025.

I. “Class Settlement” means the settlement and release of all Released Class Claims.

J. “Court” means the Superior Court of the State of California for the County of San Francisco.

K. “Defendants’ Counsel” means Marie Trimble Holvick and Matthew Wayne of Gordon Rees Scully Mansukhani, LLP.

1 L. "Effective Date" means the date when all of the following events have occurred: (1) the
2 Settlement Agreement has been executed by all Parties, Class Counsel, and Defendants' Counsel; (2)
3 the Court has given and entered Preliminary Approval to the Settlement; (3) the Class Notice has been
4 mailed and emailed (if email addresses are available) to the Class Members, providing them with an
5 opportunity to object to the terms of the Class Settlement or opt out of the Class Settlement by mail
6 and/or email; (4) the Court has held a Final Approval Hearing and entered Final Approval Order and
7 Judgment; and (5) the later of the following events: five (5) business days after the period for filing any
8 appeal, writ, or other appellate proceeding opposing the Court's Final Approval Order and Judgment
9 has elapsed without any appeal, writ, or other appellate proceeding having been filed; or, if any appeal,
10 writ, or other appellate proceeding opposing the Court's Final Approval Order and Judgment has been
11 filed, five (5) business days after any appeal, writ, or other appellate proceedings opposing the
12 Settlement has been finally and conclusively dismissed with no right to pursue further remedies or relief.

13 M. "Employers" means Back of the House, Inc., EBurger, LLC, JBurger, LLC, Mission 98
14 Super, LLC, MBurger, LLC, 2355 Telegraph Ave, LLC, The Veranda Super, LLC, 5399 Prospect Road,
15 LLC, Super Emeryville, LLC, DBurger, LLC, MetBurger, LLC, Super Novato, LLC, Super Los Gatos,
16 LLC, KBurger, LLC, 117 New Montgomery, LLC, 3401 California Street, LLC, Super Napa, LLC, Super
17 Serramonte, LLC, and Geary Mas, LLC.

18 N. "Final Approval" means the determination by the Court that the Settlement is fair,
19 reasonable, and adequate, and entry of judgment based thereon.

20 O. "Final Approval Hearing" means the hearing to be conducted by the Court to determine
21 whether to approve finally and implement the terms of this Agreement and enter the Final Approval Order
22 and Judgment.

23 P. "Gross Settlement Amount" means Eight Hundred Thousand Dollars and Zero Cents
24 (\$800,000.00) to be paid by Defendants and subject to Section V.C.5, in full resolution of all Released
25 Class Claims, Released PAGA Claims, and the Action. This amount is an all-in amount without any
26 reversion to Defendants and will be inclusive of all payments of the Individual Settlement Shares to the
27 Participating Class Members, Individual PAGA Payments to PAGA Group Members, Settlement
28 Administration Expenses to the Settlement Administrator, Class Counsel Fees Payment to Class Counsel,

1 Litigation Expenses Payment to Class Counsel, Service Payment to Plaintiff, and LWDA Payment to the
2 LWDA, as set forth in this Agreement. The employer's share of payroll taxes on the Wage Portion of the
3 Individual Settlement Shares ("Employer Taxes") will be paid by Defendants separately and in addition
4 to the Gross Settlement Amount.

5 Q. "Individual PAGA Payment" means a PAGA Group Member's *pro rata* share of the PAGA
6 Group Member Amount that a PAGA Group Member is eligible to receive under the PAGA Settlement,
7 to be calculated in accordance with Section V.B.3.a below.

8 R. "Individual Settlement Payment" means the net payment of each Participating Class
9 Member's Individual Settlement Share, after reduction for the employee's share of taxes and withholdings
10 with respect to the Wage Portion of the Individual Settlement Share.

11 S. "Individual Settlement Share" means the *pro rata* share of the Net Settlement Amount that
12 a Class Member may be eligible to receive under the Settlement Agreement, to be calculated in accordance
13 with Section V.C.2 below.

14 T. "LWDA" means the California Labor and Workforce Development Agency.

15 U. "LWDA Payment" means the amount that the Parties have agreed to pay the LWDA for
16 its seventy-five percent (75%) share of the PAGA Payment, as set forth in Section V.B.3 below.

17 V. "Net Settlement Amount" means the portion of the Gross Settlement Amount that is
18 available for distribution to Participating Class Members for the Class Settlement, which is the Gross
19 Settlement Amount less the Court-approved amounts for the Service Payment, Class Counsel Fees
20 Payment, Litigation Expenses Payment, PAGA Payment, and Settlement Administration Expenses.

21 W. "Non-Participating Class Member" means a Class Member who submits a valid and timely
22 Request for Exclusion from the Class Settlement.

23 X. "PAGA Group" or "PAGA Group Member(s)" means all current and former hourly-paid
24 or non-exempt employees who worked for any of the Defendants or Employers at a Super Duper Burgers
25 restaurant within the State of California at any time during the PAGA Period.

26 Y. "PAGA Payment" means Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross
27 Settlement Amount allocated as civil penalties under the Private Attorneys General Act, California Labor
28 Code § 2698, *et seq.* ("PAGA"). Seventy-five percent (75%) of the PAGA Payment, or Thirty-Seven

1 Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), will be payable to the LWDA (“LWDA
2 Payment”), and the remaining twenty-five percent (25%), or Twelve Thousand Five Hundred Dollars and
3 Zero Cents (\$12,500.00), will be distributed on a *pro rata* basis to PAGA Group Members based on their
4 Workweeks during the PAGA Period (“PAGA Group Member Amount”).

5 Z. “PAGA Period” means the period from May 17, 2018 through March 4, 2025, which is the
6 time period for which Released PAGA Claims are settled and resolved by way of this Settlement
7 Agreement; pursuant to *Gina Johnson v. Maxim Healthcare Services, Inc.* (2021) 66 Cal.App.5th 924,
8 based on the *Martinez* LWDA Letter having been provided on July 19, 2021, Plaintiff contends that his
9 PAGA claim can reach back to at least as far back as July 19, 2018 and as such Parties have agreed to
10 settle and resolve Released PAGA Claims for the period commencing on and from July 19, 2018. Further,
11 for the purposes of settlement only, Defendants agree to waive any statute of limitations defense to
12 Plaintiff’s PAGA claim so that the PAGA period and release of class members’ PAGA claims extends
13 back to May 17, 2018. (See *Hutcheson v. Superior Ct.* (2022) 74 Cal. App. 5th 932, 942; *Amaro v.*
14 *Anaheim Arena Mgmt., LLC* (2021) 69 Cal. App. 5th 521, 542.)

15 AA. “PAGA Settlement” means the settlement and release of Released PAGA Claims.

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

18 CC. “Preliminary Approval” means entry of the Court order granting preliminary approval of
19 the Settlement Agreement.

20 DD. “Released Class Claims” means any and all claims, rights, demands, liabilities, and causes
21 of action of any nature or description, under state, federal, or local law, that were alleged in the Operative
22 Complaint, or reasonably could have been alleged based on the factual allegations contained in the
23 Operative Complaint, arising during the Class Period, including claims for failure to pay all wages due
24 (including minimum, regular, and overtime wages), failure to provide proper meal periods and to properly
25 provide associated premium pay, failure to provide proper rest periods and associated premium pay, failure
26 to pay all wages timely at the time of termination, failure to pay all wages timely during employment,
27 failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to
28 indemnify necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204,

218.5, 218.6, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 5-2001, and 7-2001, unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the aforementioned, and all damages, penalties, interest, and other amounts recoverable under the aforementioned claims, causes of action, or legal theories of relief. Plaintiff and Participating Class Members will release Defendants and the Released Parties from all remedies that could be claimed in connection with the Released Class Claims including but not limited to, statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief.

EE. "Released PAGA Claims" means any and all causes of action that were alleged in the Operative Complaint and *Martinez* LWDA Letter, or reasonably could have been alleged based on the factual allegations contained in the Operative Complaint and *Martinez* LWDA Letter, arising during the PAGA Period, for civil penalties pursuant to the Private Attorneys General Act, California Labor Code § 2698, *et seq.*, for Defendants' alleged failure to pay all wages due (including minimum, regular, and overtime wages), failure to provide proper meal periods and to properly provide associated premium pay, failure to provide proper rest periods and associated premium pay, failure to pay all wages timely at the time of termination, failure to pay all wages timely during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to indemnify necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 5-2001, and 7-2001.

FF. "Released Parties" means Back of the House, Inc., EBurger, LLC, JBurger, LLC, Mission 98 Super, LLC, MBurger, LLC, 2355 Telegraph Ave, LLC, The Veranda Super, LLC, 5399 Prospect Road, LLC, Super Emeryville, LLC, DBurger, LLC, MetBurger, LLC, Super Novato, LLC, Super Los Gatos, LLC, KBurger, LLC, 117 New Montgomery, LLC, 3401 California Street, LLC, Super Napa, LLC, Super Serramonte, LLC, Geary Mas, LLC, Adriano Paganini, and Edmondo Sarti, and each of their past, present and/or future parent companies, partners, subsidiaries, affiliates, divisions, related companies, successors, and predecessors, as well as their respective past, present and future owners, officers, directors, shareholders, employees, agents, members, managers, principals, representatives, accountants, auditors,

consultants, insurers and reinsurers, investors, lenders, administrators, company-sponsored employee benefit plans, assigns, joint venturers, and attorneys, both individually and in their official capacities, as well as all persons acting by, through, under, or in concert with any of these persons or entities.

GG. “Request for Exclusion” means the written request by a Class Member to exclude himself or herself from the Class Settlement submitted in accordance with Section V.D.3.a below.

HH. “Service Payment” means the amount to be paid to Plaintiff in recognition of his efforts in prosecuting the Action, as set forth in Section V.B.1 below.

II. “Settlement Administrator” means CPT Group, Inc., the third-party administrator proposed by the Parties and approved by the Court for purposes of administering the Settlement. The Parties and their counsel each represent that 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.

JJ. “Settlement Administration Expenses” means the expenses payable from the Gross Settlement Amount, subject to Court approval, to the Settlement Administrator for administration of the Settlement, as set forth in Section V.B.4 below.

KK. “Workweek(s)” means the number of weeks each Class Member worked in an hourly-paid or non-exempt position at a Super Burgers restaurant during the Class Period and/or PAGA Period, excluding periods of time when Class Members’ work for Defendants had ceased, employment with Employers had been separated, and/or the Defendants and/or Employers’ businesses were closed based on COVID-19 related closures.

II. RECITALS

A. On May 17, 2019, Plaintiff Magaly Olayo Lopez (“Plaintiff Lopez”) sent a letter to the LWDA and Defendants, regarding her intent to pursue civil penalties for claimed violations of California Labor Code sections 201, 202, 203, 204, 226(a)-(e), 226.3, 226.7, 510, 512, 558, 1194, and IWC Wage Orders, including *inter alia*, Wage Orders 5-2001, and any other applicable IWC Wage Order (“Lopez LWDA Letter”).

B. On September 16, 2019, Plaintiff Lopez filed a Class Action Complaint (“Lopez Complaint”) against Defendants Back of the House, Inc., Mission 98 Super, LLC, MBurger, LLC, and JBurger, LLC in the Superior Court of the State of California for the County of San Francisco, Case No.

CGC-19-579264, entitled *Magaly Olayo Lopez v. Back of the House, Inc., et al.*, alleging causes of action for violation of (1) California Labor Code §§ 201, 204 and 1194 (Failure to Pay All Wages), (2) California Labor Code §§ 226.7 and 512 (Failure to Provide Compliant Meal Periods and Associated Premiums), (3) California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods and Associated Premiums), (4) California Labor Code § 226 (Failure to Provide Compliant Wage Statements), (5) California Labor Code §§ 201, 202 and 203 (Waiting Time Penalties); (6) California Private Attorneys General Act § 2698, and (7) California Business & Professions Code § 17200, *et seq.* (“*Lopez Action*”).

C. On December 19, 2019, Defendants Back of the House, Inc., Mission 98 Super, LLC, MBurger, LLC, and JBurger, LLC filed an Answer to the *Lopez* Complaint.

D. On July 16, 2020, Plaintiff Lopez filed an Amendment to the *Lopez* Complaint, thereby adding the following additional Defendants: 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; EBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; and KBurger, LLC.

E. On December 14, 2020, Defendants 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; EBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; and KBurger, LLC filed an Answer to the *Lopez* Complaint.

F. On July 19, 2021, Plaintiff Martinez sent a letter to the LWDA and Defendants, regarding his intent to pursue civil penalties for claimed violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and IWC Wage Orders, including *inter alia*, Wage Orders 4-2001, 5-2001, 7-2001, and any other applicable IWC Wage Order (“*Martinez LWDA Letter*”).

G. On August 9, 2021, Plaintiff Martinez filed a Class Action Complaint for Damages (“*Martinez Class Complaint*”) against Defendants Back of the House, Inc., EBurger, LLC, and JBurger, LLC in the Superior Court of the State of California for the County of San Francisco, Case No. CGC-21-594380, entitled *Erickson Martinez v. Back of the House, Inc., et al.*, alleging causes of action for violation of (1) California Labor Code §§ 510 and 1198 (Failure to Pay Overtime), (2) California Labor Code §§ 226.7 and 512(a) (Failure to Provide Compliant Meal Periods and Associated Premiums), (3) California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods and Associated Premiums), (4) California

Labor Code §§ 1194, 1197 and 1197.1 (Failure to Pay Minimum Wages), (5) California Labor Code §§ 201 and 202 (Failure to Timely Pay Final Wages), (6) California Labor Code § 204 (Failure to Timely Pay Wages During Employment), (7) California Labor Code § 226(a) (Failure to Provide Compliant Wage Statements), (8) California Labor Code § 1174(d) (Failure to Keep Requisite Payroll Records), (9) California Labor Code §§ 2800 and 2802 (Failure to Reimburse Business Expenses), and (10) California Business & Professions Code § 17200, *et seq.* (“*Martinez Class Action*”).

H. On September 22, 2021, Plaintiff Martinez filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“*Martinez PAGA Complaint*”) against Defendants Back of the House, Inc., EBurger, LLC, Adriano Paganini, and Edmondo Sarti for penalties under the California Private Attorneys General Act in the Superior Court of the State of California for the County of Alameda, Case No. RG21113642, entitled *Erickson Martinez v. Back of the House, Inc., et al.* (“*Martinez PAGA Action*”).

I. On December 3, 2021, Defendants Back of the House, Inc., EBurger, LLC, and JBurger, LLC filed an Answer to the *Martinez Class Complaint*.

J. On December 3, 2021, Defendants Back of the House, Inc., EBurger, LLC, Adriano Paganini, and Edmondo Sarti filed an Answer to the *Martinez PAGA Complaint*.

K. On September 15, 2022, the Court entered the Order Granting Petition for Coordination, thereby coordinating the *Lopez Action*, *Martinez Class Action*, and *Martinez PAGA Action* as included action in the coordinated proceeding entitled *Super Duper Burgers Wage and Hour Cases*, Judicial Council Coordination Proceeding No. 5249, pending in the Superior Court of the State of California for the County of San Francisco, assigned Case No. CJC-22-005249 (i.e., Action).

L. On January 13, 2023, Plaintiff and Plaintiff Lopez filed the Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“*Operative Complaint*”) against Defendants in the Action. The Operative Complaint alleges causes of action for violation of (1) California Labor Code §§ 510 and 1198 (Failure to Pay Overtime), (2) California Labor Code §§ 226.7 and 512(a) (Failure to Provide Compliant Meal Periods and Associated Premiums), (3) California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods and Associated Premiums), (4) California Labor Code §§ 1194, 1197 and 1197.1 (Failure to Pay Minimum

1 Wages), (5) California Labor Code §§ 201 and 202 (Failure to Timely Pay Final Wages), (6) California
2 Labor Code § 204 (Failure to Timely Pay Wages During Employment), (7) California Labor Code § 226(a)
3 (Failure to Provide Compliant Wage Statements), (8) California Labor Code § 1174(d) (Failure to Keep
4 Requisite Payroll Records), (9) California Labor Code §§ 2800 and 2802 (Failure to Reimburse Business
5 Expenses), (10) California Business & Professions Code § 17200, *et seq.*; and (11) California Labor Code
6 § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004). By way of the Operative
7 Complaint, Plaintiff, on his own, on behalf of himself individually, on behalf of other putative class
8 members, and on behalf of the State of California and other aggrieved employees pursuant to PAGA,
9 alleges and pursues all twelve causes of action asserted in the Operative Complaint.

10 M. On March 17, 2023, Defendants filed an Answer to the Operative Complaint.

11 N. The Action was mediated by settlement officer Pang Ly of the San Francisco County
12 Superior Court at the Mandatory Settlement Conference that took place on September 13, 2023. While
13 the Action did not settle right away at the Mandatory Settlement Conference, with the aid of the mediator's
14 evaluations and proposal, the Parties ultimately reached a settlement of the Action. Upon being informed
15 of the settlement, on October 6, 2023, the Court vacated the October 13, 2023 deadline for Plaintiffs to
16 file a motion for class certification.

17 O. Defendants deny all material allegations set forth in the Action and have asserted
18 numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation,
19 Defendants desire to fully and finally settle the Action, Released Class Claims, and Released PAGA
20 Claims.

21 P. Class Counsel in the Action diligently investigated the allegations asserted in the Action
22 and evaluated the claims against Defendants, including any and all applicable defenses and the
23 applicable law. The investigation included, *inter alia*, the exchange of information, data, and
24 documents, and review of numerous corporate policies and practices.

25 Q. The settlement discussions were conducted at arm's-length, and the settlement is the
26 result of an informed and detailed analysis of Defendants' potential liability and exposure in relation to
27 the costs and risks associated with continued litigation. Based on the documents produced, as well as
28 Class Counsel's own independent investigation and evaluation, Class Counsel believes that the

1 settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement
2 is fair, reasonable, and adequate and is in the best interest of the Class Members, the State of California,
3 and PAGA Group Members in light of all known facts and circumstances, including the risk of
4 significant delay and uncertainty associated with litigation and various defenses asserted by Defendants.

5 R. The Parties expressly acknowledge that this Settlement Agreement is entered into solely
6 for the purpose of compromising significantly disputed claims and that nothing herein is an admission of
7 liability or wrongdoing by Defendants. If for any reason the Settlement Agreement is not approved and
8 does not become effective, it will be of no force or effect, and the Parties shall be returned to their original
9 respective positions.

10 Based on the aforementioned recitals that are a part of this Agreement, the Parties agree as follows:

11 **III. CLASS CERTIFICATION**

12 A. For purposes of this settlement only, the Parties stipulate to the certification of the Class.

13 B. The Parties agree that certification for the purpose of settlement is not an admission that
14 certification is proper under Section 382 of the California Code of Civil Procedure. Should, for
15 whatever reason, the Court not grant Final Approval, or if the Final Approval Order and Judgment
16 thereon does not become final, the Parties' stipulation to class certification as part of the Settlement
17 shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in
18 connection with, the issue of whether or not certification would be appropriate or inappropriate in a non-
19 settlement context in this or any other proceeding.

20 **IV. PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT**

21 A. Effective July 1, 2024, California Labor Code, Section 2699(m) was amended to require
22 that "any civil penalties recovery by aggrieved employees shall be distributed as follows: sixty-five
23 percent (65%) to the LWDA and thirty-five percent (35%) to the aggrieved employees. However,
24 California Labor Code, Section 2699(v)(2) also states that "[t]he amendments made to this section by the
25 act adding this subdivision shall not apply to a civil action with respect to which the notice required by
26 subparagraph (A) of paragraph (1) of subdivision (a) ... of Section 2699.3 was filed before June 19,
27 2024." In other words, the amended distribution provision for civil penalties (set forth in California Labor
28 Code, Section 2699(m)) does not apply to a civil action in which the required notice was filed before June

19, 2024. In conformity with Section 2699.3(a)(1)(A) of the former version of the PAGA statute, Plaintiff filed the written notice with the LWDA, and also provided the written notice to Defendant, on July 19, 2021, i.e., the *Martinez* LWDA Notice. As such, the former version of the PAGA statute applies, and pursuant Section 2699(i) of that version of the statute, civil penalties recovered shall be distributed as follows: seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the aggrieved employees.

V. SETTLEMENT TERMS AND CONDITIONS

A. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, including Section V.C.5, the Gross Settlement Amount that Defendants will pay under this Settlement is Eight Hundred Thousand Dollars and Zero Cents (\$800,000.00). This amount is all-inclusive of all payments contemplated in this resolution, excluding any Employer Taxes, which will be separately paid by Defendants to the Settlement Administrator. The entire Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendants.

B. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following distributions out of the Gross Settlement Amount:

1. **To Plaintiff:** In recognition of his efforts and work in prosecuting the Action, and in exchange for Plaintiff's execution of a general release of all claims against Defendants in Plaintiff's individual capacity and California Civil Code Section 1542, as outlined in Section V.E.3, Plaintiff will apply to the Court for an award of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff as a Service Payment. Defendants will not oppose the Service Payment of up to \$10,000.00 for Plaintiff. The Settlement Administrator will distribute the Court-approved Service Payment out of the Gross Settlement Amount, in addition to Plaintiff's Individual Settlement Payment and/or Individual PAGA Payment(s), subject to Court approval. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff for the Service Payment, and Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. If the Court approves a Service Payment of less than \$10,000.00 for Plaintiff, the difference

1 between the lesser amount approved by the Court and the amount allocated toward the Service Payment
2 will be part of the Net Settlement Amount for the benefit of Participating Class Members.

3 2. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more
4 than one-third (1/3) of the Gross Settlement Amount, which is presently Two Hundred Sixty-Six Thousand
5 Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$266,666.67) for attorneys' fees (i.e., Class
6 Counsel Fees Payment) and an amount not more than Fifteen Thousand Dollars and Zero Cents
7 (\$15,000.00) for reimbursement of actual litigation costs and expenses incurred (i.e., Litigation Expenses
8 Payment). Defendants will not oppose a request for the Class Counsel Fees Payment and Litigation
9 Expenses Payment consistent with this Agreement and approved by the Court. The Settlement
10 Administrator will distribute the Class Counsel Fees Payment and Litigation Expenses Payment out of the
11 Gross Settlement Amount, subject to Court approval. These amounts will cover any and all work
12 performed and any and all costs incurred by Class Counsel in connection with the litigation of the
13 Action, including without limitation all work performed and costs incurred to date, and all work to be
14 performed and all costs to be incurred in connection with obtaining the Court's approval of this
15 Settlement Agreement, including any objections raised and any appeals necessitated by those objections.
16 Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for
17 tax purposes and for paying any taxes on the amounts received. With respect to the Class Counsel Fees
18 Payment and Litigation Expenses Payment to Class Counsel, the Settlement Administrator may purchase
19 an annuity to utilize United States Treasuries and bonds or other attorney fee deferral vehicles, for Class
20 Counsel. Any additional expenses for the purchase and/or use of attorney fee deferral vehicles for Class
21 Counsel, by the Settlement Administrator, will be paid separately by Class Counsel and will not be
22 included within the Settlement Administration Expenses. If the Court approves a Class Counsel Fees
23 Payment or a Litigation Expenses Payment of less than these amounts, the difference between the lesser
24 amount approved by the Court and the amount allocated toward the Class Counsel Fees Payment and
25 Litigation Expenses Payment will be part of the Net Settlement Amount for the benefit of Participating
26 Class Members. Class Counsel assumes full responsibility and liability for taxes owed on the Class
27 Counsel Fees Payment and Litigation Expenses Payment to Class Counsel.

1 3. **To the Labor Workforce and Development Agency and PAGA Group**
2 **Members.** The Parties will seek approval from the Court for the PAGA Payment of Fifty Thousand
3 Dollars and Zero Cents (\$50,000.00) out of the Gross Settlement Amount, of which seventy-five percent
4 (75%), or \$37,500.00, will be distributed to the LWDA (i.e., LWDA Payment) and twenty-five percent
5 (25%), or \$12,500.00, will be distributed to the PAGA Group Members on a *pro rata* basis (i.e., PAGA
6 Group Member Amount). If the Court approves a PAGA Payment of less than \$50,000.00, the remainder
7 will be part of the Net Settlement Amount for the benefit of Participating Class Members.

8 a. **Individual PAGA Payment Calculation.** Individual PAGA Payments
9 will be calculated and apportioned from the PAGA Payment based upon the number of Workweeks each
10 PAGA Group Member worked during the PAGA Period, as follows: the Settlement Administrator will
11 divide the PAGA Group Member Amount by the Workweeks of all PAGA Group Members during the
12 PAGA Period to yield the “PAGA Workweek Value,” and multiply each PAGA Group Member’s
13 individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her
14 Individual PAGA Payment that he or she is eligible to receive under the PAGA Settlement. The
15 Settlement Administrator will report the Individual PAGA Payments on IRS 1099 Forms, if applicable.
16 PAGA Group Members assume full responsibility and liability for any taxes owed on their Individual
17 PAGA Payment.

18 4. **To the Settlement Administrator.** The Settlement Administrator will distribute
19 out of the Gross Settlement Amount, to itself, its reasonable fees and expenses, as approved by the Court,
20 in an amount not to exceed Thirty-Seven Thousand and Five Hundred Dollars and Zero Cents
21 (\$37,500.00) (i.e., Settlement Administration Expenses). These costs, which will be paid from the Gross
22 Settlement Amount, subject to Court approval, will include, *inter alia*, translating the Class Notice into
23 Spanish, printing, distributing, emailing, and tracking Class Notices and other documents for this
24 Settlement, establishing a settlement website, calculating and distributing payments due under the
25 Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings,
26 and remittances, providing necessary reports and declarations, and other duties and responsibilities set
27 forth herein to process this Settlement, and as requested by the Parties. The Settlement Administrator
28 shall transmit the required Employer Taxes and employees’ share of the withholdings to the appropriate

1 state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets
2 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
3 To the extent actual Settlement Administration Expenses are greater than the estimated amount stated
4 herein, such excess amount will be deducted from the Gross Settlement Amount, subject to approval by
5 the Court. To the extent the Settlement Administration Expenses approved by the Court are less than
6 \$37,500.00, the remainder will be part of the Net Settlement Amount for the benefit of Participating Class
7 Members. The Parties each represent they do not have a financial interest in the Settlement
8 Administrator or otherwise have a relationship with the Settlement Administrator that creates or could
9 create a conflict of interest.

10 **C. Payments from the Net Settlement Amount.** The Net Settlement Amount will be the
11 remainder of the Gross Settlement Amount after deducting the Service Payment, Class Counsel Fees
12 Payment, Litigation Expenses Payment, PAGA Payment, and Settlement Administration Expenses. The
13 Net Settlement Amount will be distributed to Participating Class Members as follows:

14 **1. Individual Settlement Share.** Subject to the terms and conditions of this
15 Agreement, the Settlement Administrator will distribute an Individual Settlement Share from the Net
16 Settlement Amount to each Participating Class Member. The submission of a claim form is not required
17 in order for a Participating Class Member to be paid their Individual Settlement Share.

18 **2. Individual Settlement Share Calculation.**

19 **a.** After Preliminary Approval of the Settlement, the Settlement Administrator
20 will determine the Workweeks each Class Member worked during the Class Period, divide the Net
21 Settlement Amount by the Workweeks of all Class Members during the Class Period to yield the
22 “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks during the Class
23 Period by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that
24 he or she may be eligible to receive under the Class Settlement.

25 **b.** After Final Approval of the Settlement, the Settlement Administrator will
26 divide the final Net Settlement Amount by the Workweeks of all Participating Class Members during the
27 Class Period to yield the “Final Workweek Value,” and multiply each Participating Class Member’s
28

individual Workweeks during the Class Period by the Final Workweek Value to yield his or her Individual Settlement Share.

3. Withholding.

a. Each Individual Settlement Share will be allocated as follows: twenty percent (20%) wages (the “Wage Portion”) and eighty percent (80%) penalties, interest, and non-wage damages (“Non-Wage Portion”). The Wage Portion will be reported on an IRS Form W-2 and the Non-Wage Portion will be reported on IRS Form 1099 (if applicable) by the Settlement Administrator. The Settlement Administrator will withhold the employee’s share of taxes and withholdings with respect to the Wage Portion of the Individual Settlement Shares, and issue checks to Participating Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). The Settlement Administrator will not undertake any withholding with respect to the Non-Wage Portion of Individual Settlement Shares. Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form-1099, if necessary; the Settlement Administrator will not undertake any withholding with respect to the Individual PAGA Payment. Employer Taxes will be paid separately and in addition to the Gross Settlement Amount. Participating Class Members and PAGA Group Members assume full responsibility and liability for any taxes owed on any portion of their Individual Settlement Payment and/or Individual PAGA Payment.

4. Effect of Non-Participating Class Members. Non-Participating Class Members will not be issued an Individual Settlement Share, and their Request for Exclusion will not reduce the Gross Settlement Amount or the Net Settlement Amount. Any Non-Participating Class Member’s respective estimated Individual Settlement Share will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis.

5. Workweeks Information. Defendants previously represented that for the period of September 16, 2015 through September 11, 2023, there were approximately 3,086 Class Members and approximately 103,252 Workweeks worked by Class Members. On December 17, 2024, Defendants confirmed that due to extraneous information and data that had inadvertently been included and analyzed by them, the number of Class Members and Workweeks provided up to and including September 11, 2023

(3,086 Class Members and approximately 103,252 Workweeks) were overstated. Defendants now represent that updated and corrected calculations reflect that for the period of September 16, 2015 through September 9, 2024 there were approximately 1,425 Class Members and approximately 98,555 Workweeks worked by Class Members. Nevertheless, the Parties agree that even with the updated, reduced number of Class Members and Workweeks, the Gross Settlement Amount remains fair and reasonable and shall remain the same.

D. Procedure for Approving Settlement.

1. Motion for Preliminary Approval of Settlement by the Court.

a. After execution of this Settlement Agreement, Plaintiff will file a motion for preliminary approval of the Settlement with the Court for an order granting preliminary approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the “Motion for Preliminary Approval”). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement will be referred to the mediator or the Court for resolution.

b. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit a proposed order granting Preliminary Approval of the Settlement.

c. Should the Court decline to preliminarily approve material aspects of the Settlement or grant preliminary approval conditioned on any material modification or change to the Settlement (including, but not limited to, the scope of releases of claims or the binding effect of the Settlement on Participating Class Members or PAGA Group Members), the Parties shall work together in good faith to address any concerns raised by the Court and attempt to propose a revised Settlement for the Court’s approval.

2. Notice to Class Members. After the Court enters an order granting Preliminary Approval of the Settlement (“Order Granting Preliminary Approval”), every Class Member will be sent the Class Notice as follows:

a. No later than twenty (20) business days after the Court enters an Order Granting Preliminary Approval, Defendants will provide to the Settlement Administrator an electronic

1 database containing the Class Data. If any or all of the Class Data is unavailable to Defendants, Defendants
2 will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree
3 upon the Class Data prior to when it must be submitted to the Settlement Administrator. This information
4 will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable
5 taxing authorities, or pursuant to Defendants' express written authorization or by order of the Court. All
6 Class Data will be used for settlement notification and settlement administration and will not be used for
7 any other purpose by Class Counsel.

8 b. Using best efforts to mail it as soon as possible, and in no event later than
9 ten (10) business days after receiving the Class Data, the Settlement Administrator will search the U.S.
10 Postal Service's National Change of Address database to attempt to locate updated mailing addresses for
11 Class Members (and use the updated mailing addresses that are located, in lieu of the mailing address
12 information provided by Defendants in the Class Data) and mail the Class Notice in English and Spanish
13 to all Class Members via first-class U.S. Mail. The Settlement Administrator will also perform a single
14 email distribution of the Class Notice to all email addresses available within the Class Data.

15 c. If a Class Notice is returned as undeliverable, and without a forwarding
16 address, on or before the Response Deadline, the Settlement Administrator will promptly, within five (5)
17 calendar days of receipt, search for a more current address for the Class Member by way of skip trace and
18 re-mail the Class Notice to an alternate address located through skip trace. The Settlement Administrator
19 will use the Class Data and otherwise work with Defendants to find a more current address. If a Class
20 Notice is returned as undeliverable, and with a forwarding address, on or before the Response Deadline,
21 the Settlement Administrator will promptly, within five (5) calendar days of receipt, re-mail the Class
22 Notice to the forwarding address. If the Class Notice is re-mailed, the Settlement Administrator will note
23 for its own records the date and address of each such re-mailing and notify Class Counsel and Defendants'
24 Counsel of the re-mailing, as part of a weekly status report provided to the Parties.

25 d. The Settlement Administrator must, on a weekly basis, provide written
26 reports to Class Counsel and Defendants' Counsel that, among other things, tally the number of Class
27 Notices mailed, emailed, or re-mailed, Class Notices returned undelivered, the number of Requests for
28

1 Exclusion from the Class Settlement, objections to the Class Settlement, and Workweeks Disputes it
2 receives (“Weekly Report”).

3 e. Not later than sixteen (16) court days before the date by which Plaintiff files
4 the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for
5 filing with the Court a declaration of due diligence setting forth its compliance with its obligations under
6 this Agreement and detailing the number of Requests for Exclusion it received (including the numbers of
7 valid and deficient submissions), the names of all Non-Participating Class Members, the number of
8 Workweeks Disputes received (including the numbers of valid and deficient submissions) and the outcome
9 of these disputes, the number of objections received (including the numbers of complete and deficient
10 submissions), and attaching the objections received. Prior to the Final Approval Hearing, the Settlement
11 Administrator will supplement its declaration of due diligence if any material changes occur from the date
12 of the filing of its prior declaration.

13 f. The Settlement Administrator will also host the Class Notice via a content-
14 neutral settlement website managed by the Settlement Administrator. The settlement website will provide
15 contact information for Class Counsel and the Settlement Administrator. The Settlement Administrator
16 will provide Class Counsel and Defendants’ Counsel with a preview of the proposed website. Class
17 Counsel and Defendants’ counsel must mutually approve the URL for the website and the contents of the
18 website before the website goes live and also must approve any modifications to the website.

19 **3. Objections, Workweeks Disputes, and Requests for Exclusion.** Class Members
20 may submit a Request for Exclusion from the Class Settlement, Participating Class Members may submit
21 objections to the Class Settlement (including objections to Class Counsel Fees Payment, Litigation
22 Expenses Payment, and Service Payments), and Class Members and PAGA Group Members may also
23 submit disputes as to Workweeks allocated to them, pursuant to the following procedures:

24 a. **Requests for Exclusion from the Class Settlement.** The Parties agree,
25 and the Class Notice will provide, that Class Members who wish to exclude themselves from the Class
26 Settlement must send a signed Request for Exclusion to the Settlement Administrator by mail or email,
27 postmarked no later than forty-five (45) calendar days after the Settlement Administrator mails the Class
28 Notice (“Response Deadline”). A Request for Exclusion must: (1) contain the case name and number of

the Action; (2) state the Class Member's full name, address, telephone number, and last four digits of his or her Social Security number; (3) be signed; and (4) clearly state that the Class Member requests to be excluded from the Class Settlement. If a question is raised about the authenticity of a signed Request for Exclusion, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Class Settlement or to portions of the Final Approval Order and Judgment that apply to the Class Settlement (however, if a Non-Participating Class Member is a PAGA Group Member, he or she will nevertheless be bound to the PAGA Settlement and the portions of the Final Approval Order and Judgment that apply to the PAGA Settlement). A Class Member who does not complete and mail or email a valid and timely Request for Exclusion in the manner and by the deadline specified above will automatically be deemed a Participating Class Member and be bound by all terms and conditions of the Class Settlement, including the release of Released Class Claims, if the Settlement is approved by the Court, and by the Final Approval Order and Judgment (as it pertains to the Class Settlement), regardless of whether he or she has objected to the Class Settlement. Non-Participating Class Members shall not be permitted to file objections to the Class Settlement or appear at the Final Approval Hearing to voice any objections to the Class Settlement.

All Participating Class Members who do not submit a valid and timely Request for Exclusion will be issued an Individual Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Class Settlement, including without limitation, the release of the Released Class Claims as set forth in this Agreement. Any Class Member who submits a valid and timely Request for Exclusion is nevertheless bound to the PAGA Settlement if he or she is a PAGA Group Member, as well as any judgment that may be entered by the Court if it grants Final Approval to the Settlement, as it pertains to the PAGA Settlement.

b. **Objections to the Class Settlement.** The Parties agree, and the Class Notice will provide, that only Participating Class Members may object to the Class Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator (who will provide copies to the Parties' counsel and attach copies to its declaration that is filed with the Court in advance of the Final Approval Hearing) by mail or email, postmarked no later than the Response Deadline. A written objection must: (1) contain the case name and number of the Action;

(2) state the Participating Class Member's full name, address, telephone number, and last four digits of his or her Social Security number; (3) be signed; (4) clearly set forth the grounds for the objection; (5) attach any documentation that the objection is based upon; and (6) identify any counsel representing the Participating Class Member with respect to the objection. In addition to submitting a written objection, or alternatively, Participating Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Class Settlement or any aspect thereof. A Participating Class Member who does not submit an objection in the manner and by the deadline specified above will be deemed to have waived any objection and will be foreclosed from making any objection (whether by appeal or otherwise) to the Class Settlement or any aspect thereof. Non-Participating Class Members shall have no ability to comment on or object to the Class Settlement.

c. **Workweeks Disputes.** The Parties agree, and the Class Notice will provide, that each Class Member and PAGA Group Member may dispute the number of Workweeks allocated to him or her during the Class Period and/or PAGA Period. Any dispute as to this allocation will be resolved by the Settlement Administrator. Any such dispute must be in writing and sent to the Settlement Administrator, by mail or email, postmarked no later than the Response Deadline. A written dispute ("Workweeks Dispute") must: (1) contain the case name and number of the Action; (2) state the Class Member's or PAGA Group Member's full name, address, telephone number, and last four digits of his or her Social Security number; (3) be signed; (4) clearly state that the Class Member or PAGA Group Member disputes the number of Workweeks credited to him or her and state the number of Workweeks he or she believes are correct; and (5) attach any documentation to support the dispute.

d. **Re-mailed Notice.** In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the original deadline.

4. **Right of Defendants to Reject Settlement.** If ten percent (10%) or more of the Class Members submit valid and timely Requests for Exclusion, Defendants will have the right, but not the obligation, to void the Settlement and the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Defendants will pay the Settlement

Administration Expenses incurred as of the date that Defendants exercise the right to void the Settlement. Defendants will notify Class Counsel in writing and the Court whether it is exercising this right to void no later than seven (7) calendar days after the Settlement Administrator notifies the Parties that the number of valid and timely Requests for Exclusion it has received exceeds ten percent (10%) or more of the Class Members.

5. No Solicitation. The Parties and their counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Class Settlement, appeal from the Final Approval Order and Judgment, or submit Requests for Exclusion from the Class Settlement.

6. Additional Briefing and Final Approval.

a. Plaintiff will file with the Court their application for the Class Counsel Fees Payment, Litigation Expenses Payment, and Service Payment no later than the date on which Plaintiff files the motion for final approval, and not later than sixteen (16) court days before the Final Approval Hearing, and the application will be scheduled to be heard by the Court at the Final Approval Hearing. Plaintiff may combine the motion seeking final approval of the settlement with the application for the Class Counsel Fees Payment, Litigation Expenses Payment, and Service Payment. If any opposition is filed, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the motion for Final Approval and/or application for Service Payment, Class Counsel Fees Payment, and Litigation Expenses Payment.

b. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material modification or change to the Settlement (including, but not limited to, the scope of the release of claims with respect to Participating Class Members and/or PAGA Group Members), then the Parties shall work together in good faith to address any concerns raised by the Court and attempt to propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiff and Class Counsel for the Service Payment, Class Counsel Fees Payment, or Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this Paragraph.

c. Upon final approval of the Settlement by the Court at or after the Final

1 Approval Hearing, the Parties will present for the Court's approval and entry a proposed order granting
2 final approval of the Settlement and judgment based thereon ("Final Approval Order and Judgment").
3 After entry of the Final Approval Order and Judgment, the Court will have continuing jurisdiction over
4 the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing
5 settlement administration matters, and (iii) addressing such post-judgment matters as may be appropriate
6 under court rules or applicable law. The entry of the judgment will be pursuant to California Rule of
7 Court 3.769(h) in a form acceptable to the Parties.

8 **7. Waiver of Right to Appeal.** Provided that the Final Approval Order and Judgment
9 is consistent with the terms and conditions of this Agreement, Plaintiff and Participating Class Members
10 who did not timely submit an objection to the Class Settlement, Defendants, and their respective counsel
11 hereby waive any and all rights to appeal from the Final Approval Order and Judgment, including all
12 rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to
13 vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include
14 any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings. If an
15 appeal is taken from the Final Approval Order and Judgment, the time for consummation of the Settlement
16 (including making payments under the Settlement) will be suspended until such time as the appeal is
17 finally resolved and the Final Approval Order and Judgment becomes final.

18 **8. Vacating, Reversal, or Material Modification of Final Approval Order and**
19 **Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for
20 *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies
21 the Final Approval Order and Judgment such that there is a material modification to the Settlement
22 (including, but not limited to, the scope of the release of claims with respect to Participating Class
23 Members and/or PAGA Group Members), and that Court's decision is not completely reversed and the
24 Final Approval Order and Judgment is not fully affirmed on review by a higher Court, then the Parties
25 shall work together in good faith to address any concerns raised by the reviewing Court and propose a
26 revised Settlement for the approval of the Court. A vacation, reversal, or modification of the Court's
27 award of the Service Payment or the Class Counsel Fees Payment or Litigation Expenses Payment will
28 not constitute a vacation, reversal, or material modification of the Final Approval Order and Judgment

1 within the meaning of this Paragraph, provided that Defendants' obligation to make payments under this
2 Settlement will remain limited to the Gross Settlement Amount.

3 **9. Procedure for Funding of Settlement.** Within thirty (30) calendar days after the
4 Effective Date, Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts
5 necessary to fully pay their Employer Taxes to the Settlement Administrator.

6 **10. Procedure for Payment of Settlement Payments.** The Settlement Administrator
7 shall distribute the following payments: Within ten (10) business days of the funding of the Gross
8 Settlement Amount and Employer Taxes, the Settlement Administrator will mail checks for all Individual
9 Settlement Payments to Participating Class Members, Service Payment to Plaintiff, Individual PAGA
10 Payments to PAGA Group Members, LWDA Payment to the LWDA, the Settlement Administration
11 Expenses to itself (the Settlement Administrator), and Class Counsel Fees Payment and Litigation
12 Expenses Payment to Class Counsel.

13 **11. Uncashed Individual Settlement Payment and Individual PAGA Payment**
14 **Checks.** The Settlement Administrator may, at its discretion, distribute the Individual Settlement
15 Payments and Individual PAGA Payments by way of a single check that combines both payments (if
16 applicable). Each Individual Settlement Payment and Individual PAGA Payment check will be valid and
17 negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and
18 thereafter, shall be canceled. All funds associated with canceled checks will be transmitted to the *cy pres*,
19 Children of Shelters, in accordance with California Code of Civil Procedure section 384. The Parties and
20 their counsel each represent they do not have a financial interest in Children of Shelters or otherwise
21 have a relationship with Children of Shelters that creates or could create a conflict of interest. The
22 Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting,
23 required under applicable local, state, and federal tax laws, that are necessitated due to the cancellation
24 of any Individual Settlement Payment checks or Individual PAGA Payment checks. All Participating
25 Class Members and PAGA Group Members shall be bound by the terms and conditions of this Settlement
26 Agreement regardless of whether they cash or otherwise negotiate their Individual Settlement Payment
27 check and/or Individual PAGA Payment check or not.

28 **12. Final Report by Settlement Administrator to Court.** Within ten (10) calendar

1 days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator
2 will serve on the Parties and file with the Court a declaration proving a final report on the disbursements
3 of all funds from the Gross Settlement Amount.

4 **E. Release of Claims.**

5 1. **Release of Released Class Claims.** Upon the Effective Date, Plaintiff and each
6 Participating Class Member will be deemed to have fully, finally, and forever released, settled,
7 compromised, relinquished, and discharged the Released Parties from any and all Released Class Claims.
8 This release and waiver, however, shall be conditional on Defendants' full payment of the Gross
9 Settlement Amount necessary to fund all payment obligations.

10 2. **Release of Released PAGA Claims.** Upon the Effective Date, Plaintiff, the State
11 of California, and all PAGA Group Members will be deemed to have fully, finally, and forever released,
12 settled, compromised, relinquished, and discharged the Released Parties from any and all Released
13 PAGA Claims. This release and waiver, however, shall be conditional on Defendants' full payment of
14 the Gross Settlement Amount necessary to fund all payment obligations. PAGA Group Members cannot
15 exclude themselves from the PAGA Settlement.

16 3. **Plaintiff's Release of Claims.** In addition, upon the Effective Date and full
17 funding of the Gross Settlement Amount, Plaintiff will be deemed to have fully released and discharged
18 the Released Parties from any and all claims arising from his employment with Defendants, separation of
19 employment from Defendants, and any acts that have or could have been asserted in any legal action or
20 proceeding against Defendants, whether known or unknown, arising under any federal, state, or local law,
21 or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act,
22 Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income
23 Security Act, National Labor Relations Act, California Corporations Code, California Business and
24 Professions Code, Orders of the California Industrial Welfare Commission, California Fair Employment
25 and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for
26 discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment
27 compensation, emotional distress, medical expenses, other economic and non-economic damages,
28 attorney fees, and costs, arising on or before the date on which the Settlement is executed. With respect to

those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

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

Plaintiff understands and agrees that claims and facts in addition to or different from those which are whether known or believed by him to exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all claims he now has against the Released Parties, whether known or unknown, suspected or unsuspected. The Service Payment will be paid to Plaintiff specifically in exchange for the general release of the Released Parties from all claims, including those specified in this Paragraph and a covenant not to sue the Released Parties. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for enforcement of this Settlement, for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

F. No Effect on Other Benefits. Any payments made under this Settlement will not result in any additional benefit payments (such as 401(k) or bonus) to Plaintiff, Participating Class Members, and PAGA Group Members.

G. Limitation on Public Statements About Settlement. Plaintiff and Class Counsel represent that they have not and will not issue any press, publications, or other media releases about the Settlement (including, but not necessarily limited to advertising or marketing materials or on social media) or have any communication with the press or media regarding the Settlement. This provision will not prohibit Class Counsel from (i) communicating with Class Members after Preliminary Approval is granted for the sole purpose of administering the Settlement; (ii) complying with ethical obligations; (iii) submitting orders and/or information to the LWDA to comply with the PAGA statute; or (iv) referring to the Action and Settlement in other litigations to support their adequacy as attorneys for a putative class or to justify an award of attorneys' fees. Plaintiff and Class Counsel agree not to respond to any media

inquiries except to refer reporters to the papers filed with the Court. Defendants may disclose information regarding the Settlement under its contractual and legal obligations.

H. Miscellaneous Terms.

1. No Admission of Liability or Class Certification for Other Purposes.

a. Defendants and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendants or the Released Parties, or an admission by Plaintiff that any of the claims were non-meritorious or any defense asserted by Defendants was meritorious. This Settlement and the fact that Plaintiff and Defendants were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement).

b. Whether or not the Final Approval Order and Judgment becomes final, neither the Settlement, this Agreement, any document, statement, proceeding, or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff or Defendants or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or (ii) disclosed, referred to, or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal, or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

1 2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties
2 and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties
3 relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants,
4 or inducements have been made to any Party concerning this Agreement or its exhibits other than the
5 representations, warranties, covenants, and inducements expressly stated in this Agreement and its
6 exhibits.

7 3. **Attorney Authorization.** The Parties and their counsel will cooperate with each
8 other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are
9 unable to reach agreement on the form or content of any document needed to implement the Agreement,
10 or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement,
11 the Parties will seek the assistance of a mediator for resolution.

12 4. **No Prior Assignments:** The Parties represent, covenant, and warrant that they have
13 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber
14 to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released
15 and discharged in this Settlement.

16 5. **No Tax Advice:** Neither Class Counsel nor Defendants' Counsel intend for
17 anything contained in this Settlement to constitute advice regarding taxes or taxability, nor will anything
18 in this Settlement be relied upon as such within the meaning of United States Treasury Department
19 Circular 230 (31 CFR Part 10, as amended) or otherwise. Except as provided above, neither Defendants,
20 Employers, and Released Parties, nor their counsel, shall have any liability for any tax implications related
21 to the receipt of settlement funds herein, including by the Court-appointed third-party administrator; any
22 and all such liability and/or obligations shall be borne solely by the payee recipients of any funds to be
23 paid by Defendants and Employers herein.

24 6. **Modification of Agreement.** This Agreement, and any and all parts of it, may be
25 amended, modified, changed, or waived only by an express written instrument signed by counsel for the
26 Parties, subject to Court approval. Counsel for all Parties may amend or modify this Agreement as needed
27 without signatures from their respective clients. The Parties agree that this Agreement may be signed
28 electronically.

1 7. **Agreement Binding on Successors.** This Agreement will be binding upon, and
2 inure to the benefit of, the successors or assigns of each of the Parties.

3 8. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will
4 be governed by and interpreted according to the laws of the State of California.

5 9. **Cooperation in Drafting.** The Parties have cooperated in the drafting and
6 preparation of this Agreement. This Agreement will not be construed against any Party on the basis that
7 the Party was the drafter or participated in the drafting, it being recognized that, because of the arms-
8 length negotiations between the Parties, all Parties have contributed equally to the preparation of this
9 Settlement Agreement.

10 10. **Fair Settlement.** The Parties and their respective counsel believe and warrant that
11 this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this
12 Agreement through arms-length negotiations, taking into account all relevant factors, current and
13 potential. The Parties further acknowledge that they are each represented by competent counsel and that
14 they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of
15 this Settlement Agreement.

16 11. **Use of Documents and Data.** All originals, copies, and summaries of documents
17 and data provided to Class Counsel by Defendants in connection with the mediation or other settlement
18 negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and
19 may not be used in any way that violates any existing contractual agreement, statute, or rule.

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

22 13. **Invalidity of Any Provision.** Before declaring any provision of this Settlement
23 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
24 possible consistent with applicable precedents so as to define all provisions of this Settlement
25 Agreement valid and enforceable.

26 14. **All Terms Subject to Final Court Approval.** All amounts and procedures
27 described in this Settlement Agreement herein will be subject to final Court approval.
28

15. **Posting of the Final Approval Order and Judgment.** The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website within three (3) business days of receipt, and shall maintain the posting for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment will be required to be provided to the Class.

16. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

Edwin Aiwarzian
Arby Aiwarzian
Joanna Ghosh
Tara Zabehi
LAWYERS for JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203
Tel.: (818) 265-1020
Fax: (818) 265-1021
E-Mail: edwin@calljustice.com; arby@calljustice.com; joanna@calljustice.com; tara@calljustice.com

To Defendants:

Marie Trimble Holvick
Matthew Wayne
Gordon Rees Scully Mansukhani LLP
272 Battery Street, Suite 2000
San Francisco, California 94111
Tel: (415) 986-5900
Fax: (415) 986-8054
E-Mail: mholvick@grsm.com; mwayne@grsm.com;

17. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically, or email which for purposes of this Agreement will be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

1 18. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the
2 Action under California Code of Civil Procedure section 664.6 to ensure the continuing implementation
3 of this Agreement and enforcement of the Settlement until performance in full of the terms of this
4 Settlement.

5 *[Signatures included on next page]*
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IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendants:

IT IS SO AGREED.

REPRESENTATIVE PLAINTIFF ERICKSON MARTINEZ

Dated: _____, 2025

Erickson Martinez, Plaintiff

DEFENDANT BACK OF THE HOUSE, LLC

Dated: January 31, 2025 | 2:12 PM PST _____, 2025

DocuSigned by:
Edmondo Sarti

E6817C916E7D455...
Back of the House, LLC, Defendant
By:
Title:

DEFENDANT EBURGER, LLC

Dated: January 31, 2025 | 2:12 PM PST _____, 2025

DocuSigned by:
Edmondo Sarti

E6817C916E7D455...
EBurger, LLC, Defendant
By:
Title:

DEFENDANT JBURGER, LLC

Dated: January 31, 2025 | 2:12 PM PST _____, 2025

DocuSigned by:
Edmondo Sarti

E6817C916E7D455...
JBurger, LLC, Defendant
By:
Title:

DEFENDANT MISSION 98 SUPER, LLC

Dated: January 31, 2025 | 2:12 PM PST _____, 2025

DocuSigned by:
Edmondo Sarti

E6817C916E7D455...
Mission 98 Super, LLC, Defendant
By:
Title:

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DEFENDANT MBURGER, LLC

Dated: January 31, 2025 | 2:12 PM PST

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

MBurger, LLC, Defendant

By:

Title:

DEFENDANT 2355 TELEGRAPH AVE, LLC

Dated: January 31, 2025 | 2:12 PM PST

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

2355 Telegraph Ave, LLC, Defendant

By:

Title:

DEFENDANT THE VERANDA SUPER, LLC

Dated: January 31, 2025 | 2:12 PM PST

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

The Veranda Super, LLC, Defendant

By:

Title:

DEFENDANT 5399 PROSPECT ROAD, LLC

Dated: January 31, 2025 | 2:12 PM PST

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

5399 Prospect Road, LLC, Defendant

By:

Title:

DEFENDANT SUPER EMERYVILLE, LLC

Dated: January 31, 2025 | 2:12 PM PST

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

Super Emeryville, LLC, Defendant

By:

Title:

DEFENDANT DBURGER, LLC

Dated: January 31, 2025 | 2:12 PM PST

DocuSigned by:

Edmondo Sarti

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DBurger, LLC, Defendant

By:

Title:

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DEFENDANT METBURGER, LLC

Dated: January 31, 2025 | 2:12 PM PST, 2025

DocuSigned by:

Edmondo Sarti

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MetBurger, LLC, Defendant

By:

Title:

DEFENDANT SUPER NOVATO, LLC

Dated: January 31, 2025 | 2:12 PM PST, 2025

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

Super Novato, LLC, Defendant

By:

Title:

DEFENDANT SUPER LOS GATOS, LLC

Dated: January 31, 2025 | 2:12 PM PST, 2025

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

Super Los Gatos, LLC, Defendant

By:

Title:

DEFENDANT KBURGER, LLC

Dated: January 31, 2025 | 2:12 PM PST, 2025

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

KBurger, LLC, Defendant

By:

Title:

DEFENDANT ADRIANO PAGANINI

Dated: January 31, 2025 | 3:41 PM PST, 2025

DocuSigned by:

Adriano Paganini

3CA831F390E7428...

Adriano Paganini, Defendant

DEFENDANT EDMONDO SARTI

Dated: January 31, 2025 | 2:12 PM PST, 2025

DocuSigned by:

Edmondo Sarti

E6817C916E7D455...

Edmondo Sarti, Defendant

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1 **AGREED AS TO FORM:**

2 Dated: _____, 2025

LAWYERS for JUSTICE, PC

3
4 By: _____

5 Joanna Ghosh
6 Tara Zabehi
7 *Attorneys for Plaintiffs*

8 Dated: January 31, 2025 | 1:43 PM PST
9 _____, 2025

GORDON REES SCULLY MANSUKHANI, LLP

10 By:  _____
11 0504202F40CA4C6...

12 Marie Trimble Holvick
13 Matthew Wayne
14 *Attorneys for Defendants*

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendants:

IT IS SO AGREED.

**REPRESENTATIVE PLAINTIFF ERICKSON
MARTINEZ**

Dated: 1/31, 2025

Electronically Signed: 2025-01-31 21:13:10 UTC - 76.126.146.238

Nintex AssureSign® d4eb58a5-ce62-4fc5-a098-b276015a1af6

Erickson Martinez, Plaintiff

DEFENDANT BACK OF THE HOUSE, LLC

Dated: _____, 2025

Back of the House, LLC, Defendant

By:
Title:

DEFENDANT EBURGER, LLC

Dated: _____, 2025

EBurger, LLC, Defendant

By: _____
Title: _____

DEFENDANT JBURGER, LLC

Dated: _____, 2025

JBurger, LLC, Defendant

By:
Title:

DEFENDANT MISSION 98 SUPER, LLC

Dated: _____, 2025

Mission 98 Super, LLC, Defendant

By:
Title:

///

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1 **AGREED AS TO FORM:**

2 Dated: 1/31, 2025

LAWYERS *for* JUSTICE, PC

3
4 By: 

5 Joanna Ghosh
6 Tara Zabehe
7 *Attorneys for Plaintiffs*

8 Dated: _____, 2025

GORDON REES SCULLY MANSUKHANI, LLP

9 By: _____

10 Marie Trimble Holvick
11 Matthew Wayne
12 *Attorneys for Defendants*

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

JCCP Case No. 5249 Super Duper Burgers Wage and Hour Cases

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendants' records indicate that you are a current or former employee of a Super Duper Burgers restaurants in California between September 16, 2015 through March 4, 2025, and a class action settlement described in this letter may affect your rights. You may be eligible to take part in the class action settlement reached in the above-referenced cases.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Class Notice is designed to advise you of your rights and options, and how you can request to be excluded from the class settlement, object to the class settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

A court authorized this notice. This is not a solicitation from a lawyer.

WHY YOU ARE GETTING THIS NOTICE : A class action settlement has been reached between Plaintiff Erickson Martinez ("Plaintiff Martinez") and Defendants Back of the House, Inc.; EBurger, LLC; JBurger, LLC; Mission 98 Super, LLC; MBurger, LLC; 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; KBurger, LLC; Adriano Paganini; and Edmondo Sarti (together, "Defendants") (Plaintiff Martinez and Defendants are collectively referred to as the "Parties") in the class action cases, which have been coordinated under Judicial Council Coordination Proceeding No. 5249 (Superior Court of California, County of San Francisco Case No. CJC-22-005249); *Erickson Martinez v. Back of the House, Inc., et al.*, Case No. CGC-21-594380 pending in the Superior Court of the State of California, County of San Francisco; *Erickson Martinez v. Back of the House, Inc., et al.*, Case No. RG21113642 pending in the Superior Court of the State of California, County of Alameda; and *Magaly Olayo Lopez v. Back of the House, Inc., et al.*, Case No. CGC-19-579264 pending in the Superior Court of the State of California, County of San Francisco (together, the "Actions"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees who worked for any of the Defendants or Employers at a Super Duper Burgers restaurants within the State of California at any time during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the time period from September 16, 2015 through March 4, 2025.

"PAGA Group Member(s)" means all current and former hourly-paid or non-exempt employees who worked for any of the Defendants or Employers at a Super Duper Burgers restaurants within the State of California at any time during the PAGA Period.

"PAGA Period" means the period from May 17, 2018 through March 4, 2025.

II. BACKGROUND OF THE ACTIONS

On September 16, 2019, Plaintiff Magaly Olayoy Lopez ("Plaintiff Lopez") filed a Class Action Complaint ("*Lopez Complaint*") against Defendants Back of the House, Inc., Mission 98 Super, LLC, MBurger, LLC, and JBurger,

LLC in the Superior Court of the State of California for the County of San Francisco, Case No. CGC-19-579264. On December 19, 2019, Defendants Back of the House, Inc., Mission 98 Super, LLC, MBurger, LLC, and JBurger, LLC filed an Answer to the *Lopez* Complaint. On July 16, 2020, Plaintiff Lopez filed an Amendment to the *Lopez* Complaint, thereby adding the following additional Defendants: 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; EBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; and KBurger, LLC. On December 14, 2020, Defendants 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; EBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; and KBurger, LLC filed an Answer to the *Lopez* Complaint.

On August 9, 2021, Plaintiff Martinez filed a Class Action Complaint for Damages (“*Martinez* Class Complaint”) against Defendants Back of the House, Inc., EBurger, LLC, and JBurger, LLC in the Superior Court of the State of California for the County of San Francisco, Case No. CGC-21-594380 (“*Martinez* Class Action”). On September 23, 2021, Plaintiff Martinez filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendants Back of the House, Inc., EBurger, LLC, Adriano Paganini, and Edmondo Sarti for penalties under the California Private Attorneys General Act in the Superior Court of the State of California for the County of Alameda, Case No. RG21113642 (“*Martinez* PAGA Action”). On December 3, 2021, Defendants Back of the House, Inc., EBurger, LLC, and JBurger, LLC filed an Answer to the *Martinez* Class Action Complaint. On December 3, 2021, Defendants Back of the House, Inc., EBurger, LLC, Adriano Paganini, and Edmondo Sarti filed an Answer to the *Martinez* PAGA Complaint.

On September 15, 2022, the Court entered the Order Granting Petition for Coordination, thereby coordinating the *Lopez* Action, *Martinez* Class Action, and *Martinez* PAGA Action in the coordinated proceeding entitled Super Duper Burgers Wage and Hour Cases in the Superior Court of the State of California for the County of San Francisco, Case No. CJC-22-005249 and Judicial Council Coordination Proceeding No. 5249 (i.e., Action).

On January 13, 2023, Plaintiff Martinez and Plaintiff Lopez filed the Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative Complaint”) against Defendants in the Action. On March 17, 2023, Defendants filed an Answer to the Operative Complaint.

Plaintiffs allege that Defendants failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide compliant wage statements, keep requisite payroll records, reimburse business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq.* Plaintiffs seek, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys’ fees and costs.

Defendants deny all of the allegations in the Actions and deny that they violated any laws.

After investigation and analysis of the claims, the Parties engaged in good faith, arm’s-length negotiations, and, as a result, the Parties reached a settlement. The Parties have since entered into the First Amended Joint Stipulation of Class Action and PAGA Settlement Agreement and Release (“Agreement,” “Settlement,” or “Settlement Agreement”).

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed [Administrator] as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Erickson Martinez as the representative of the Class (“Class Representative”), and the following counsel as counsel for the Class (“Class Counsel”):

Arby Aiwazian, Esq.
Joanna Ghosh, Esq.
Tara Zabehi, Esq.

Lawyers for Justice, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below.

Because this Settlement resolves claims brought pursuant to PAGA by Plaintiffs acting as representatives and as a Private Attorney General of and for the State of California and the Labor and Workforce Development Agency (“LWDA”), a PAGA Group Member cannot opt out of the release of the claims for PAGA civil penalties set forth in the Settlement Agreement. All PAGA Group Members will release the Released PAGA Claims and will be paid their respective shares of the PAGA Fund.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended to or will be construed as an admission by Defendants that the claims in the Actions have merit or that Defendants have any liability to Plaintiffs, Class Members, and PAGA Group Members. Plaintiff Martinez and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interest of the Class Members. The Court has made no ruling on the merits of the claims asserted in the Actions and has determined only that certification of the Class for settlement purposes is appropriate under California law.

Defendants maintain that they complied at all times with California law and deny that they did anything wrong. Defendants disputed and still dispute the claims made against them.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Eight Hundred Thousand Dollars and Zero Cents (\$800,000.00) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments, which are subject to approval by the Court: (1) attorneys’ fees in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (which is presently estimated to be \$266,666.67) and reimbursement of litigation costs and expenses in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) (together, “Class Counsel Fees Payment and Litigation Expenses Payment”) to Class Counsel; (2) Service Payment in an amount up to Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff Martinez for his services in the Actions; (3) Fifty Thousand Dollars and Zero Cents (\$50,000.00) (“PAGA Payment”), with Seventy-Five Percent (75%) or Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00) of the PAGA Settlement Amount to be paid to the LWDA (“LWDA Payment”) and Twenty-Five Percent (25%) or Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) (“PAGA Group Member Amount”) to be paid to PAGA Group Members; and (4) Settlement administration expenses in an amount not to exceed Thirty-Seven Thousand Five Dollars and Zero Cents (\$37,500.00) to the Settlement Administrator (“Settlement Administration Expenses”).

Class Members are entitled to receive payment under the Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of Workweeks each Class Member worked in an hourly-paid or non-exempt position at a Super Duper Burgers restaurants during the Class Period, excluding periods of time when Class Members’ employment were separated or the businesses were closed based on COVID-19 related closures (“Workweeks”).

The Settlement Administrator has divided the Net Settlement Amount by the total number of Workweeks of all Class Members during the Class Period to yield the “Estimated Workweek Value,” and multiplied each Class

Member's individual Workweeks during the Class Period by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion by mail or email ("Participating Class Members") will be issued their payment of their final Individual Settlement Share.

Similarly, PAGA Group Members are entitled to receive payment under the Settlement of their *pro rata* share of the PAGA Group Member Amount ("Individual PAGA Payment") based on the number of Workweeks each PAGA Group Member worked in an hourly-paid or non-exempt position at a Super Duper Burgers restaurant during the PAGA Period, excluding periods of time when Class Members' work for Defendants had ceased, employment with Employers had been separated, and/or the Defendants and/or Employers' businesses were closed based on COVID-19 related closures.

The Settlement Administrator will divide the PAGA Group Member Amount by the Workweeks of all PAGA Group Members during the PAGA Period to yield the "PAGA Workweek Value", and multiply each PAGA Group Members' individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment that he or she is eligible to receive under the Settlement.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages, which will be reported on an IRS Form W-2, and eighty percent (80%) penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099, if applicable. Each Individual Settlement Share shall be subject to reduction for the employee's share of payroll taxes due on the wages portion of the Individual Settlement Share. The employer's share of payroll taxes and contributions in connection with the wages portion of the Individual Settlement Shares ("Employer Taxes") will be paid by Defendants separately and in addition to the Gross Settlement Amount.

Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form-1099, if necessary; the Settlement Administrator will not undertake any withholding with respect to the Individual PAGA Payment.

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members and PAGA Group Members at the address that is on file with the Settlement Administrator. **If the address provided in this Class Notice is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendants' Records

According to Defendants' records:

From September 16, 2015 through March 4, 2025 (i.e., Class Period), you are credited as having worked [REDACTED] Workweeks.

If you wish to dispute the Workweeks credited to you, you must submit a written dispute ("Workweeks Dispute"), by e-mail or physical mail which must: (1) contain the case name and number of the Action; (2) state your full name, address, telephone number, and last four digits of your Social Security number; (3) be signed by you; (4) clearly state that you dispute the number of Workweeks credited to you and state the number of Workweeks you believe are correct; and (5) attach any documentation to support the dispute. The Workweeks Dispute must be submitted to the Settlement Administrator by mail or email at the specified address listed in Section IV.B below, postmarked **no later than [Response Deadline]**.

C. Your Estimated Individual Settlement Payment

As explained above, your estimated Individual Settlement Payment is based on the number of Workweeks credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$[REDACTED]. The Individual Settlement Share is subject to reduction for the employee's

share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share.

The settlement approval process may take multiple months. Your Individual Settlement Payment reflected in this Class Notice is only an estimate. Your actual Individual Settlement Payment may be higher or lower. Payments will be distributed only after the Court grants final approval of the Settlement and after the Settlement goes into effect.

D. Released Claims

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff Martinez, all Class Members who have not submitted a timely and valid Request for Exclusion (i.e., Participating Class Members), the State of California with respect to PAGA Group Members, and PAGA Group Members will be deemed to have fully, finally and forever released, settled, compromised, relinquished, discharged all Released Parties of any and all Released Class Claims and Released PAGA Claims. The Parties agree that the judgment, and release of claims provided herein shall have *res judicata* effect. The definition of Released Class Claims shall not be limited in any way by the possibility that Plaintiff Martinez or Participating Class Members may discover new facts or legal theories or legal arguments not alleged in the operative pleadings in the Actions but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Class Claims.

“Released Class Claims” means any and all claims, rights, demands, liabilities, and causes of action of any nature or description, under state, federal, or local law, that were alleged in the operative complaint in the Actions, or reasonably could have been alleged based on the factual allegations contained in the operative complaint in the Actions, arising during the Class Period, including claims for failure to pay all wages due (including minimum, regular, and overtime wages), failure to provide proper meal periods and to properly provide associated premium pay, failure to provide proper rest periods and associated premium pay, failure to pay all wages timely at the time of termination, failure to pay all wages timely during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to indemnify necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 5-2001, and 7-2001, unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the aforementioned, and all damages, penalties, interest, and other amounts recoverable under the aforementioned claims, causes of action, or legal theories of relief. Plaintiff Martinez and Participating Class Members will release Defendants and the Released Parties from all remedies that could be claimed in connection with the Released Class Claims, including but not limited to, statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys’ fees, litigation costs, restitution, and equitable relief.

“Released PAGA Claims” means any and all causes of action that were alleged in the operative complaint in the Actions and Plaintiff Martinez’s LWDA Letter, or reasonably could have been alleged based on the factual allegations contained in the operative complaint in the Actions and Plaintiff Martinez’s LWDA Letter, arising during the PAGA Period, for civil penalties pursuant to the Private Attorneys General Act, California Labor Code § 2698, *et seq.*, for Defendants’ alleged failure to pay all wages due (including minimum, regular, and overtime wages), failure to provide proper meal periods and to properly provide associated premium pay, failure to provide proper rest periods and associated premium pay, failure to pay all wages timely at the time of termination, failure to pay all wages timely during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to indemnify necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 5-2001, and 7-2001.

“Released Parties” means Back of the House, Inc., EBurger, LLC, JBurger, LLC, Mission 98 Super, LLC, MBurger, LLC, 2355 Telegraph Ave, LLC, The Veranda Super, LLC, 5399 Prospect Road, LLC, Super Emeryville, LLC, DBurger, LLC, MetBurger, LLC, Super Novato, LLC, Super Los Gatos, LLC, KBurger, LLC, 117 New Montgomery, LLC, 3401 California Street, LLC, Super Napa, LLC, Super Serramonte, LLC, Geary Mas, LLC, Adriano Paganini, and Edmondo Sarti, and each of their past, present and/or future parent companies, partners,

subsidiaries, affiliates, divisions, related companies, successors, and predecessors, as well as their respective past, present and future owners, officers, directors, shareholders, employees, agents, members, managers, principals, representatives, accountants, auditors, consultants, insurers and reinsurers, investors, lenders, administrators, company-sponsored employee benefit plans, assigns, joint venturers, and attorneys, both individually and in their official capacities, as well as all persons acting by, through, under, or in concert with any of these persons or entities.

E. Class Counsel Fees Payment and Litigation Expenses Payment to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to one-third (1/3) of the Gross Settlement Amount (which is presently estimated to be \$266,666.67) and reimbursement of litigation costs and expenses in an amount of up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00), subject to approval by the Court. All Class Counsel Fees Payment and Litigation Expenses Payment granted by the Court will be paid from the Gross Settlement Amount. Class Counsel has been prosecuting the Actions on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

As a Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses

F. Service Payment to Plaintiff Martinez

Plaintiff Martinez will seek the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) ("Service Payment"), in recognition of his services in connection with the Actions. The Service Payment will be paid from the Gross Settlement Amount, subject to approval by the Court, and, if awarded, will be paid to Plaintiff Martinez in addition to any payment he is entitled to under the Settlement.

G. Settlement Administration Expenses to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Thirty-Seven Thousand and Five Hundred Dollars and Zero Cents (\$37,500.00) ("Settlement Administration Expenses") for the costs of the notice and settlement administration process, including but not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, objections, and Workweeks Disputes, calculating Individual Settlement Shares, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. If You Do Nothing, You Will Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Settlement.

You will be bound by the terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Class Claims described in Section III.D above.

B. If You Request Exclusion from the Class Settlement, You Will Not Participate in the Class Settlement

If you do not wish to participate in the Class Settlement, you must submit a written request ("Request for Exclusion") by e-mail or physical mail, that must: (1) contain the case name and number of the Action; (2) state your full name, address, telephone number, and last four digits of your Social Security number; (3) be signed by you; and (4) clearly state that the you request to be excluded from the Class Settlement. The Request for Exclusion must be submitted to the Settlement Administrator by mail or e-mail, postmarked **no later than [Response Deadline]** at the following address and email:

[Settlement Administrator]

[Address]

[E-mail Address]

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion from the Class Settlement will not be entitled to receive an Individual Settlement Payment from the Class Settlement, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of Released Class Claims described in Section III.D above, as well as the contemplated judgment to be entered by the Court, if the Court grants final approval of the Settlement. If you submit a timely and valid Request for Exclusion, you will retain your right to pursue your claims against Defendants in a separate action/proceeding.

PAGA Group Members may not opt-out of the PAGA Settlement and will still be paid their respective share of the PAGA Group Member Amount.

C. If You Object to the Class Settlement, You Remain Part of the Class and Participate in the Class Settlement

You may object to the terms of the Class Settlement only if you have not submitted a Request for Exclusion from the Class Settlement, by submitting either a written objection to the Settlement Administrator (“Objection”) by mail or e-mail, or presenting your objection orally at the Final Approval Hearing without any prior notice. You may not object to the Class Settlement if you submitted a Request for Exclusion from the Class Settlement (i.e., you **may not** submit **both** a Request for Exclusion **and** an Objection). If you submit **both** a Request for Exclusion **and** an Objection, the Settlement Administrator will honor the submission that is received **first** and disregard the other.

An Objection must either be submitted orally at the Final Approval Hearing, or, if submitted in writing prior to the Final Approval Hearing, it must: (1) contain the case name and number of the Action; (2) state your full name, address, telephone number, and last four digits of your Social Security number; (3) be signed by you; (4) clearly set forth the grounds for the Objection; (5) attach any documentation that the objection is based upon; and (6) identify any counsel representing you with respect to the objection; and (7) be returned by mail or e-mail to the Settlement Administrator at the address listed in Section IV.B above, postmarked **no later than** [Response Deadline].

If the Court rejects your Objection, you are still entitled to participate in the Settlement.

DEFENDANTS WILL NOT RETALIATE AGAINST ANY CLASS MEMBER FOR EXERCISING ANY OF THEIR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 304 of the San Francisco County Superior Court, located at 400 McAllister St., San Francisco, California 94102, on [date] at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Class Counsel Fees Payment and Litigation Expenses Payment to Class Counsel, Service Payment to Plaintiff Martinez, and Settlement Administration Expenses to the Settlement Administrator.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

You can find information about appearing remotely through CourtCall online at: <https://courtcall.com/schedule/>.

Please note, due to COVID-19, there are limitations on personal appearances, but telephonic appearances are available. You can visit the Court’s website for the most up-to-date information regarding the impact of COVID-

19 on the operations of the Court and any requirements that may apply for accessing Court facilities: <https://sf.courts.ca.gov/>. Please note that there may be deadlines to reserve a remote appearance and reservation fees or charges may apply.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

The easiest way to read the Settlement Agreement, the Judgment, or any other Settlement document is to go to the Settlement Administrator's website at [\[Administrator URL\]](#).

You may also view the Settlement Agreement and documents filed in the Actions for free by visiting the civil clerk's office, located at 400 McAllister St., Room 103, San Francisco, California 94102, during business hours, or online by visiting the following website: <https://sf.courts.ca.gov/online-services/case-information>, clicking "Access Now" under Case Query and typing in the Court Case Number "CJC-22-005249."

PLEASE DO NOT TELEPHONE THE COURT, THE JUDGE, OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [\[INSERT\]](#), OR YOU MAY ALSO CONTACT CLASS COUNSEL.

EXHIBIT 3

**FIRST AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND RELEASE**

This First Amended Joint Stipulation of Class Action and PAGA Settlement Agreement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”) is made by and between Plaintiff Erickson Martinez (“Plaintiff”) and Defendants Back of the House, Inc.; EBurger, LLC; JBurger, LLC; Mission 98 Super, LLC; MBurger, LLC; 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; KBurger, LLC; Adriano Paganini; and Edmondo Sarti (collectively, “Defendants”) (together, with Plaintiff, the “Parties” or individually referred to as “Party”). Pursuant to Section IV.H, Paragraph D of the Joint Stipulation of Class Action and PAGA Settlement Agreement and Release executed on April 3, 2024, upon full execution of this Settlement Agreement, Parties hereby amend and supplant the Joint Stipulation of Class Action and PAGA Settlement Agreement and Release.

This Settlement Agreement shall be binding on Plaintiff, Participating Class Members (as defined below), PAGA Group Members (as defined below), the State of California (as set forth herein), and on Defendants and Employers (as defined below), subject to the terms and conditions hereof and approval of the Court.

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

A. “Action” means the coordinated action entitled *Super Duper Burgers Wage and Hour Cases* in the Superior Court of the State of California for the County of San Francisco, Case No. CJC-22-005249 and Judicial Council Coordination Proceeding No. 5249, which expressly includes the following actions: (1) *Erickson Martinez v. Back of the House, Inc., et al.*, Case No. CGC-21-594380 pendingfiled in the Superior Court of the State of California, County of San Francisco; (2) *Erickson Martinez v. Back of the House, Inc., et al.*, Case No. RG21113642 pendingfiled in the Superior Court of the State of California, County of Alameda; and (3) *Magaly Olayo Lopez v. Back of the House, Inc., et al.*, Case No. CGC-19-579264 pendingfiled in the Superior Court of the State of California, County of San Francisco.

1 B. "Class" means all current and former hourly-paid or non-exempt employees who worked
2 for any of the Defendants or Employers at a Super Duper Burgers restaurant within the State of California
3 at any time during the Class Period, ~~except for those employees who entered into releases of the claims~~
4 ~~asserted in the Action prior to full execution of the Parties' Memorandum of Understanding.~~

5 C. "Class Member" means a member of the Class.

6 D. "Class Counsel" means Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh, and ~~Vartan~~
7 ~~Madoyan~~ Tara Zabeji of Lawyers *for* Justice, PC.

8 E. "Class Counsel Fees Payment" and "Litigation Expenses Payment" mean the amounts to
9 be paid to Class Counsel for attorneys' fees and reimbursement of litigation expenses, respectively, as
10 approved by the Court, to compensate them for their legal work in connection with the Action, including
11 their pre-filing investigation, filing of the Action, all related litigation activities, all Settlement work, all
12 post-Settlement compliance procedures, and related litigation expenses incurred in connection with the
13 Action.

14 F. "Class Data" means a complete list of all Class Members that Defendants will diligently
15 and in good faith compile from their records and provide to the Settlement Administrator. The Class
16 Data will be formatted in a readable Microsoft Office Excel spreadsheet and will include each Class
17 Member's full name, last known mailing address, last known email address, Social Security Number,
18 total number of Workweeks during the Class Period, total number of Workweeks during the PAGA
19 Period, and any other information required by the Settlement Administrator in order to effectuate the terms
20 of the Settlement.

21 G. "Class Notice" means the Notice of Class Action Settlement, substantively in the form
22 attached hereto as **Exhibit A** to this Agreement and incorporated by reference into this Agreement.

23 H. "Class Period" means the period from September 16, 2015 through ~~the date the Court~~
24 ~~grants Preliminary Approval of the Settlement~~ March 4, 2025.

25 I. "Class Settlement" means the settlement and release of all Released Class Claims.

26 J. "Court" means the Superior Court of the State of California for the County of San
27 Francisco.

1 K. “Defendants’ Counsel” means Marie Trimble Holvick and Matthew Wayne of Gordon
2 Rees Scully Mansukhani, LLP.

3 L. “Effective Date” means the date when all of the following events have occurred: (1) the
4 Settlement Agreement has been executed by all Parties, Class Counsel, and Defendants’ Counsel; (2)
5 the Court has given and entered Preliminary Approval to the Settlement; (3) the Class Notice has been
6 mailed and emailed (if email addresses are available) to the Class Members, providing them with an
7 opportunity to object to the terms of the Class Settlement or opt out of the Class Settlement by mail
8 and/or email; (4) the Court has held a Final Approval Hearing and entered Final Approval Order and
9 Judgment; and (5) the later of the following events: five (5) business days after the period for filing any
10 appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment
11 has elapsed without any appeal, writ, or other appellate proceeding having been filed; or, if any appeal,
12 writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has been
13 filed, five (5) business days after any appeal, writ, or other appellate proceedings opposing the
14 Settlement has been finally and conclusively dismissed with no right to pursue further remedies or relief.

15 M. “Employers” means Back of the House, Inc., EBurger, LLC, J Burger, LLC, Mission 98
16 Super, LLC, MBurger, LLC, 2355 Telegraph Ave, LLC, The Veranda Super, LLC, 5399 Prospect Road,
17 LLC, Super Emeryville, LLC, DBurger, LLC, MetBurger, LLC, Super Novato, LLC, Super Los Gatos,
18 LLC, KBurger, LLC, 117 New Montgomery, LLC, 3401 California Street, LLC, Super Napa, LLC, Super
19 Serramonte, LLC, and Geary Mas, LLC.

20 N. “Final Approval” means the determination by the Court that the Settlement is fair,
21 reasonable, and adequate, and entry of judgment based thereon.

22 O. “Final Approval Hearing” means the hearing to be conducted by the Court to determine
23 whether to approve finally and implement the terms of this Agreement and enter the Final Approval Order
24 and Judgment.

25 P. “Gross Settlement Amount” means Eight Hundred Thousand Dollars and Zero Cents
26 (\$800,000.00) to be paid by Defendants and subject to Section IVY.C.5, in full resolution of all Released
27 Class Claims, Released PAGA Claims, and the Action. This amount is an all-in amount without any
28 reversion to Defendants and will be inclusive of all payments of the Individual Settlement Shares to the

1 Participating Class Members, Individual PAGA Payments to PAGA Group Members, Settlement
2 Administration Expenses to the Settlement Administrator, Class Counsel Fees Payment to Class Counsel,
3 Litigation Expenses Payment to Class Counsel, Service Payment to Plaintiff, and LWDA Payment to the
4 LWDA, as set forth in this Agreement. The employer's share of payroll taxes on the Wage Portion of the
5 Individual Settlement Shares ("Employer Taxes") will be paid by Defendants separately and in addition
6 to the Gross Settlement Amount.

7 Q. "Individual PAGA Payment" means a PAGA Group Member's *pro rata* share of the PAGA
8 Group Member Amount that a PAGA Group Member is eligible to receive under the PAGA Settlement,
9 to be calculated in accordance with Section IVV.B.3.a below.

10 R. "Individual Settlement Payment" means the net payment of each Participating Class
11 Member's Individual Settlement Share, after reduction for the employee's share of taxes and withholdings
12 with respect to the Wage Portion of the Individual Settlement Share.

13 S. "Individual Settlement Share" means the *pro rata* share of the Net Settlement Amount that
14 a Class Member may be eligible to receive under the Settlement Agreement, to be calculated in accordance
15 with Section IVV.C.2 below.

16 T. "LWDA" means the California Labor and Workforce Development Agency.

17 U. "LWDA Payment" means the amount that the Parties have agreed to pay the LWDA for
18 its seventy-five percent (75%) share of the PAGA Payment, as set forth in Section IVV.B.3 below.

19 V. "Net Settlement Amount" means the portion of the Gross Settlement Amount that is
20 available for distribution to Participating Class Members for the Class Settlement, which is the Gross
21 Settlement Amount less the Court-approved amounts for the Service Payment, Class Counsel Fees
22 Payment, Litigation Expenses Payment, PAGA Payment, and Settlement Administration Expenses.

23 W. "Non-Participating Class Member" means a Class Member who submits a valid and timely
24 Request for Exclusion from the Class Settlement.

25 X. "PAGA Group" or "PAGA Group Member(s)" means all current and former hourly-paid
26 or non-exempt employees who worked for any of the Defendants or Employers at a Super Duper Burgers
27 restaurant within the State of California at any time during the PAGA Period, ~~except for those employees~~
28 ~~who entered into releases of the claims asserted in the Action prior to full execution of the Parties'~~

1 ~~Memorandum of Understanding.~~

2 Y. "PAGA Payment" means Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross
3 Settlement Amount allocated as civil penalties under the Private Attorneys General Act, California Labor
4 Code § 2698, *et seq.* ("PAGA"). Seventy-five percent (75%) of the PAGA Payment, or Thirty-Seven
5 Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), will be payable to the LWDA ("LWDA
6 Payment"), and the remaining twenty-five percent (25%), or Twelve Thousand Five Hundred Dollars and
7 Zero Cents (\$12,500.00), will be distributed on a *pro rata* basis to PAGA Group Members based on their
8 Workweeks during the PAGA Period ("PAGA Group Member Amount").

9 ~~Z. "PAGA Period" means the period from May 17, 2018 through the date the Court grants~~
10 ~~Preliminary Approval of the Settlement.~~

11 Z. "PAGA Period" means the period from May 17, 2018 through March 4, 2025, which is the
12 time period for which Released PAGA Claims are settled and resolved by way of this Settlement
13 Agreement; pursuant to *Gina Johnson v. Maxim Healthcare Services, Inc.* (2021) 66 Cal.App.5th 924,
14 based on the *Martinez* LWDA Letter having been provided on July 19, 2021, Plaintiff contends that his
15 PAGA claim can reach back to at least as far back as July 19, 2018 and as such Parties have agreed to
16 settle and resolve Released PAGA Claims for the period commencing on and from July 19, 2018. Further,
17 for the purposes of settlement only, Defendants agree to waive any statute of limitations defense to
18 Plaintiff's PAGA claim so that the PAGA period and release of class members' PAGA claims extends
19 back to May 17, 2018. (See *Hutcheson v. Superior Ct.* (2022) 74 Cal. App. 5th 932, 942; *Amaro v.*
20 *Anaheim Arena Mgmt., LLC* (2021) 69 Cal. App. 5th 521, 542.)

21 AA. "PAGA Settlement" means the settlement and release of Released PAGA Claims.

22 BB. "Participating Class Member" means a Class Member who does not submit a valid and
23 timely Request for Exclusion from the Class Settlement.

24 CC. "Preliminary Approval" means entry of the Court order granting preliminary approval of
25 the Settlement Agreement.

26 DD. "Released Class Claims" means any and all claims, rights, demands, liabilities, and causes
27 of action of any nature or description, under state, federal, or local law, that were alleged in the Operative
28 Complaint, or reasonably could have been alleged based on the factual allegations contained in the

Operative Complaint, arising during the Class Period, including claims for failure to pay all wages due (including minimum, regular, and overtime wages), failure to provide proper meal periods and to properly provide associated premium pay, failure to provide proper rest periods and associated premium pay, failure to pay all wages timely at the time of termination, failure to pay all wages timely during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to indemnify necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 5-2001, and 7-2001, unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the aforementioned, and all damages, penalties, interest, and other amounts recoverable under the aforementioned claims, causes of action, or legal theories of relief. Plaintiff and Participating Class Members will release Defendants and the Released Parties from all remedies that could be claimed in connection with the Released Class Claims including but not limited to, statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief.

EE. "Released PAGA Claims" means any and all causes of action that were alleged in the Operative Complaint and *Martinez and Lopez-LWDA LettersLetter*, or reasonably could have been alleged based on the factual allegations contained in the Operative Complaint and *Martinez and Lopez-LWDA LettersLetter*, arising during the PAGA Period, for civil penalties pursuant to the Private Attorneys General Act, California Labor Code § 2698, *et seq.*, for Defendants' alleged failure to pay all wages due (including minimum, regular, and overtime wages), failure to provide proper meal periods and to properly provide associated premium pay, failure to provide proper rest periods and associated premium pay, failure to pay all wages timely at the time of termination, failure to pay all wages timely during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to indemnify necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 5-2001, and 7-2001.

FF. "Released Parties" means Back of the House, Inc., EBurger, LLC, JBurger, LLC, Mission 98 Super, LLC, MBurger, LLC, 2355 Telegraph Ave, LLC, The Veranda Super, LLC, 5399 Prospect

Road, LLC, Super Emeryville, LLC, DBurger, LLC, MetBurger, LLC, Super Novato, LLC, Super Los Gatos, LLC, KBurger, LLC, 117 New Montgomery, LLC, 3401 California Street, LLC, Super Napa, LLC, Super Serramonte, LLC, Geary Mas, LLC, Adriano Paganini, and Edmondo Sarti, and each of their past, present and/or future parent companies, partners, subsidiaries, affiliates, divisions, related companies, successors, and predecessors, as well as their respective past, present and future owners, officers, directors, shareholders, employees, agents, members, managers, principals, representatives, accountants, auditors, consultants, insurers and reinsurers, investors, lenders, administrators, company-sponsored employee benefit plans, assigns, joint venturers, and attorneys, both individually and in their official capacities, as well as all persons acting by, through, under, or in concert with any of these persons or entities.

GG. “Request for Exclusion” means the written request by a Class Member to exclude himself or herself from the Class Settlement submitted in accordance with Section IVV.D.3.a below.

HH. “Service Payment” means the amount to be paid to Plaintiff in recognition of his efforts in prosecuting the Action, as set forth in Section IVV.B.1 below.

II. “Settlement Administrator” means CPT Group, Inc., the third-party administrator proposed by the Parties and approved by the Court for purposes of administering the Settlement. The Parties and their counsel each represent that 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.

JJ. “Settlement Administration Expenses” means the expenses payable from the Gross Settlement Amount, subject to Court approval, to the Settlement Administrator for administration of the Settlement, as set forth in Section IVV.B.4 below.

KK. “Workweek(s)” means the number of weeks each Class Member worked in an hourly-paid or non-exempt position at a Super Burgers restaurant during the Class Period and/or PAGA Period, excluding periods of time when Class Members’ work for Defendants had ceased, employment with Employers werehad been separated-, and/or the Defendants and/or Employers’ businesses were closed based on COVID-19 related closures.

II. RECITALS

A. On May 17, 2019, Plaintiff Magaly ~~Olayoy~~Olayo Lopez (“Plaintiff Lopez”) sent a letter to the LWDA and Defendants, regarding her intent to pursue civil penalties for claimed violations of

California Labor Code sections 201, 202, 203, 204, 226(a)-(e), 226.3, 226.7, 510, 512, 558, 1194, and IWC Wage Orders, including *inter alia*, Wage Orders 5-2001, and any other applicable IWC Wage Order (“Lopez LWDA Letter”).

B. On September 16, 2019, Plaintiff Lopez filed a Class Action Complaint (“Lopez Complaint”) against Defendants Back of the House, Inc., Mission 98 Super, LLC, MBurger, LLC, and JBurger, LLC in the Superior Court of the State of California for the County of San Francisco, Case No. CGC-19-579264, entitled *Magaly Olayo Lopez v. Back of the House, Inc., et al*, alleging causes of action for violation of (1) California Labor Code §§ 201, 204 and 1194 (Failure to Pay All Wages), (2) California Labor Code §§ 226.7 and 512 (Failure to Provide Compliant Meal Periods and Associated Premiums), (3) California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods and Associated Premiums), (4) California Labor Code § 226 (Failure to Provide Compliant Wage Statements), (5) California Labor Code §§ 201, 202 and 203 (Waiting Time Penalties); (6) California Private Attorneys General Act § 2698, and (7) California Business & Professions Code § 17200, *et seq.* (“Lopez Action”).

C. On December 19, 2019, Defendants Back of the House, Inc., Mission 98 Super, LLC, MBurger, LLC, and JBurger, LLC filed an Answer to the *Lopez* Complaint.

D. On July 16, 2020, Plaintiff Lopez filed an Amendment to the *Lopez* Complaint, thereby adding the following additional Defendants: 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; EBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; and KBurger, LLC.

E. On December 14, 2020, Defendants 2355 Telegraph Ave, LLC; The Veranda Super, LLC; 5399 Prospect Road, LLC; Super Emeryville, LLC; DBurger, LLC; EBurger, LLC; MetBurger, LLC; Super Novato, LLC; Super Los Gatos, LLC; and KBurger, LLC filed an Answer to the *Lopez* Complaint.

F. On July 19, 2021, Plaintiff Martinez sent a letter to the LWDA and Defendants, regarding his intent to pursue civil penalties for claimed violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and IWC Wage Orders, including *inter alia*, Wage Orders 4-2001, 5-2001, 7-2001, and any other applicable IWC Wage Order (“Martinez LWDA Letter”).

G. On August 9, 2021, Plaintiff Martinez filed a Class Action Complaint for Damages

1 (“Martinez Class Complaint”) against Defendants Back of the House, Inc., EBurger, LLC, and JBurger,
2 LLC in the Superior Court of the State of California for the County of San Francisco, Case No. CGC-21-
3 594380, entitled *Erickson Martinez v. Back of the House, Inc., et al.*, alleging causes of action for violation
4 of (1) California Labor Code §§ 510 and 1198 (Failure to Pay Overtime), (2) California Labor Code §§
5 226.7 and 512(a) (Failure to Provide Compliant Meal Periods and Associated Premiums), (3) California
6 Labor Code § 226.7 (Failure to Provide Compliant Rest Periods and Associated Premiums), (4) California
7 Labor Code §§ 1194, 1197 and 1197.1 (Failure to Pay Minimum Wages), (5) California Labor Code §§
8 201 and 202 (Failure to Timely Pay Final Wages), (6) California Labor Code § 204 (Failure to Timely
9 Pay Wages During Employment), (7) California Labor Code § 226(a) (Failure to Provide Compliant Wage
10 Statements), (8) California Labor Code § 1174(d) (Failure to Keep Requisite Payroll Records), (9)
11 California Labor Code §§ 2800 and 2802 (Failure to Reimburse Business Expenses), and (10) California
12 Business & Professions Code § 17200, *et seq.* (“Martinez Class Action”).

13 H. On September 22, 2021, Plaintiff Martinez filed a Complaint for Enforcement Under the
14 Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* (“Martinez PAGA Complaint”)
15 against Defendants Back of the House, Inc., EBurger, LLC, Adriano Paganini, and Edmondo Sarti for
16 penalties under the California Private Attorneys General Act in the Superior Court of the State of
17 California for the County of Alameda, Case No. RG21113642, entitled *Erickson Martinez v. Back of the*
18 *House, Inc., et al.* (“Martinez PAGA Action”).

19 I. On December 3, 2021, Defendants Back of the House, Inc., EBurger, LLC, and JBurger,
20 LLC filed an Answer to the *Martinez Class Complaint*.

21 J. On December 3, 2021, Defendants Back of the House, Inc., EBurger, LLC, Adriano
22 Paganini, and Edmondo Sarti filed an Answer to the *Martinez PAGA Complaint*.

23 K. On September 15, 2022, the Court entered the Order Granting Petition for Coordination,
24 thereby coordinating the *Lopez Action*, *Martinez Class Action*, and *Martinez PAGA Action* as included
25 action in the coordinated proceeding entitled *Super Duper Burgers Wage and Hour Cases*, Judicial
26 Council Coordination Proceeding No. 5249, pending in the Superior Court of the State of California for
27 the County of San Francisco, assigned Case No. CJC-22-005249 ~~and Judicial Council Coordination~~
28 ~~Proceeding No. 5249~~ (i.e., Action).

1 L. On January 13, 2023, Plaintiff and Plaintiff Lopez filed the Consolidated Class Action
2 Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code
3 § 2698, Et Seq. (“Operative Complaint”) against Defendants in the Action. The Operative Complaint
4 alleges causes of action for violation of (1) California Labor Code §§ 510 and 1198 (Failure to Pay
5 Overtime), (2) California Labor Code §§ 226.7 and 512(a) (Failure to Provide Compliant Meal Periods
6 and Associated Premiums), (3) California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods
7 and Associated Premiums), (4) California Labor Code §§ 1194, 1197 and 1197.1 (Failure to Pay Minimum
8 Wages), (5) California Labor Code §§ 201 and 202 (Failure to Timely Pay Final Wages), (6) California
9 Labor Code § 204 (Failure to Timely Pay Wages During Employment), (7) California Labor Code § 226(a)
10 (Failure to Provide Compliant Wage Statements), (8) California Labor Code § 1174(d) (Failure to Keep
11 Requisite Payroll Records), (9) California Labor Code §§ 2800 and 2802 (Failure to Reimburse Business
12 Expenses), (10) California Business & Professions Code § 17200, et seq.; and (11) California Labor Code
13 § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004). By way of the Operative
14 Complaint, Plaintiff, on his own, on behalf of himself individually, on behalf of other putative class
15 members, and on behalf of the State of California and other aggrieved employees pursuant to PAGA,
16 alleges and pursues all twelve causes of action asserted in the Operative Complaint.

17 M. On March 17, 2023, Defendants filed an Answer to the Operative Complaint.

18 N. The Action was mediated by settlement officer Pang Ly of the San Francisco County
19 Superior Court at the Mandatory Settlement Conference that took place on September 13, 2023. While
20 the Action did not settle right away at the Mandatory Settlement Conference, with the aid of the mediator’s
21 evaluations and proposal, the Parties ultimately reached a settlement of the Action. Upon being informed
22 of the settlement, on October 6, 2023, the Court vacated the October 13, 2023 deadline for Plaintiffs to
23 file a motion for class certification.

24 N.O. Defendants deny all material allegations set forth in the Action and have asserted
25 numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation,
26 Defendants desire to fully and finally settle the Action, Released Class Claims, and Released PAGA
27 Claims.
28

1 O.P. Class Counsel in the Action diligently investigated the allegations asserted in the Action
2 and evaluated the claims against Defendants, including any and all applicable defenses and the
3 applicable law. The investigation included, *inter alia*, the exchange of information, data, and
4 documents, and review of numerous corporate policies and practices.

5 P.Q. The settlement discussions were conducted at arm's-length, and the settlement is the
6 result of an informed and detailed analysis of Defendants' potential liability and exposure in relation to
7 the costs and risks associated with continued litigation. Based on the documents produced, as well as
8 Class Counsel's own independent investigation and evaluation, Class Counsel believes that the
9 settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement
10 is fair, reasonable, and adequate and is in the best interest of the Class Members, the State of California,
11 and PAGA Group Members in light of all known facts and circumstances, including the risk of
12 significant delay and uncertainty associated with litigation and various defenses asserted by Defendants.

13 Q.R. The Parties expressly acknowledge that this Settlement Agreement is entered into solely
14 for the purpose of compromising significantly disputed claims and that nothing herein is an admission of
15 liability or wrongdoing by Defendants. If for any reason the Settlement Agreement is not approved and
16 does not become effective, it will be of no force or effect, and the Parties shall be returned to their original
17 respective positions.

18 Based on the aforementioned recitals that are a part of this Agreement, the Parties agree as follows:

19 **III. CLASS CERTIFICATION**

20 A. For purposes of this settlement only, the Parties stipulate to the certification of the Class.

21 B. The Parties agree that certification for the purpose of settlement is not an admission that
22 certification is proper under Section 382 of the California Code of Civil Procedure. Should, for
23 whatever reason, the Court not grant Final Approval, or if the Final Approval Order and Judgment
24 thereon does not become final, the Parties' stipulation to class certification as part of the Settlement
25 shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in
26
27
28

connection with, the issue of whether or not certification would be appropriate or inappropriate in a non-settlement context in this or any other proceeding.

IV. PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT

A. Effective July 1, 2024, California Labor Code, Section 2699(m) was amended to require that “any civil penalties recovery by aggrieved employees shall be distributed as follows: sixty-five percent (65%) to the LWDA and thirty-five percent (35%) to the aggrieved employees. However, California Labor Code, Section 2699(v)(2) also states that “[t]he amendments made to this section by the act adding this subdivision shall not apply to a civil action with respect to which the notice required by subparagraph (A) of paragraph (1) of subdivision (a) ... of Section 2699.3 was filed before June 19, 2024.” In other words, the amended distribution provision for civil penalties (set forth in California Labor Code, Section 2699(m)) does not apply to a civil action in which the required notice was filed before June 19, 2024. In conformity with Section 2699.3(a)(1)(A) of the former version of the PAGA statute, Plaintiff filed the written notice with the LWDA, and also provided the written notice to Defendant, on July 19, 2021, i.e., the *Martinez* LWDA Notice. As such, the former version of the PAGA statute applies, and pursuant Section 2699(i) of that version of the statute, civil penalties recovered shall be distributed as follows: seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the aggrieved employees.

IV.V. SETTLEMENT TERMS AND CONDITIONS

A. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, including Section ~~IV.V.~~C.5, the Gross Settlement Amount that Defendants will pay under this Settlement is Eight Hundred Thousand Dollars and Zero Cents (\$800,000.00). This amount is all-inclusive of all payments contemplated in this resolution, excluding any Employer Taxes, which will be separately paid by Defendants to the Settlement Administrator. The entire Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendants.

B. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following distributions out of the Gross Settlement Amount:

1. **To Plaintiff:** In recognition of his efforts and work in prosecuting the Action, and in exchange for Plaintiff's execution of a general release of all claims against Defendants in Plaintiff's individual capacity and California Civil Code Section 1542, as outlined in Section ~~IV~~V.E.3, Plaintiff will apply to the Court for an award of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff as a Service Payment. Defendants will not oppose the Service Payment of up to \$10,000.00 for Plaintiff. The Settlement Administrator will distribute the Court-approved Service Payment out of the Gross Settlement Amount, in addition to Plaintiff's Individual Settlement Payment and/or Individual PAGA Payment(s), subject to Court approval. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff for the Service Payment, and Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. If the Court approves a Service Payment of less than \$10,000.00 for Plaintiff, the difference between the lesser amount approved by the Court and the amount allocated toward the Service Payment will be part of the Net Settlement Amount for the benefit of Participating Class Members.

2. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than one-third (1/3) of the Gross Settlement Amount, which is presently Two Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$266,666.67) for attorneys' fees (i.e., Class Counsel Fees Payment) and an amount not more than Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for reimbursement of actual litigation costs and expenses incurred (i.e., Litigation Expenses Payment). Defendants will not oppose a request for the Class Counsel Fees Payment and Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement Administrator will distribute the Class Counsel Fees Payment and Litigation Expenses Payment out of the Gross Settlement Amount, subject to Court approval. These amounts will cover any and all work performed and any and all costs incurred by Class Counsel in connection with the litigation of the Action, including without limitation all work performed and costs incurred to date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. With respect to the Class Counsel Fees

1 Payment and Litigation Expenses Payment to Class Counsel, the Settlement Administrator may purchase
2 an annuity to utilize United States Treasuries and bonds or other attorney fee deferral vehicles, for Class
3 Counsel. Any additional expenses for the purchase and/or use of attorney fee deferral vehicles for Class
4 Counsel, by the Settlement Administrator, will be paid separately by Class Counsel and will not be
5 included within the Settlement Administration Expenses. If the Court approves a Class Counsel Fees
6 Payment or a Litigation Expenses Payment of less than these amounts, the difference between the lesser
7 amount approved by the Court and the amount allocated toward the Class Counsel Fees Payment and
8 Litigation Expenses Payment will be part of the Net Settlement Amount for the benefit of Participating
9 Class Members. Class Counsel assumes full responsibility and liability for taxes owed on the Class
10 Counsel Fees Payment and Litigation Expenses Payment to Class Counsel.

11 3. **To the Labor Workforce and Development Agency and PAGA Group**
12 **Members.** The Parties will seek approval from the Court for the PAGA Payment of Fifty Thousand
13 Dollars and Zero Cents (\$50,000.00) out of the Gross Settlement Amount, of which seventy-five percent
14 (75%), or \$37,500.00, will be distributed to the LWDA (i.e., LWDA Payment) and twenty-five percent
15 (25%), or \$12,500.00, will be distributed to the PAGA Group Members on a *pro rata* basis (i.e., PAGA
16 Group Member Amount). If the Court approves a PAGA Payment of less than \$50,000.00, the remainder
17 will be part of the Net Settlement Amount for the benefit of Participating Class Members.

18 a. **Individual PAGA Payment Calculation.** Individual PAGA Payments
19 will be calculated and apportioned from the PAGA Payment based upon the number of Workweeks each
20 PAGA Group Member worked during the PAGA Period, as follows: the Settlement Administrator will
21 divide the PAGA Group Member Amount by the Workweeks of all PAGA Group Members during the
22 PAGA Period to yield the “PAGA Workweek Value,” and multiply each PAGA Group Member’s
23 individual Workweeks during the PAGA Period by the PAGA Workweek Value to yield his or her
24 Individual PAGA Payment that he or she is eligible to receive under the PAGA Settlement. The
25 Settlement Administrator will report the Individual PAGA Payments on IRS 1099 Forms, if applicable.
26 PAGA Group Members assume full responsibility and liability for any taxes owed on their Individual
27 PAGA Payment.
28

1 4. **To the Settlement Administrator.** The Settlement Administrator will distribute
2 out of the Gross Settlement Amount, to itself, its reasonable fees and expenses, as approved by the Court,
3 in an amount not to exceed Thirty-Seven Thousand and Five Hundred Dollars and Zero Cents
4 (~~\$30,000~~37,500.00) (i.e., Settlement Administration Expenses). These costs, which will be paid from the
5 Gross Settlement Amount, subject to Court approval, will include, *inter alia*, translating the Class Notice
6 into Spanish, printing, distributing, emailing, and tracking Class Notices and other documents for this
7 Settlement, establishing a settlement website, calculating and distributing payments due under the
8 Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings,
9 and remittances, providing necessary reports and declarations, and other duties and responsibilities set
10 forth herein to process this Settlement, and as requested by the Parties. The Settlement Administrator
11 shall transmit the required Employer Taxes and employees' share of the withholdings to the appropriate
12 state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets
13 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
14 To the extent actual Settlement Administration Expenses are greater than the estimated amount stated
15 herein, such excess amount will be deducted from the Gross Settlement Amount, subject to approval by
16 the Court. To the extent the Settlement Administration Expenses approved by the Court are less than
17 ~~\$30,000~~37,500.00, the remainder will be part of the Net Settlement Amount for the benefit of Participating
18 Class Members. The Parties each represent they do not have a financial interest in the Settlement
19 Administrator or otherwise have a relationship with the Settlement Administrator that creates or could
20 create a conflict of interest.

21 C. **Payments from the Net Settlement Amount.** The Net Settlement Amount will be the
22 remainder of the Gross Settlement Amount after deducting the Service Payment, Class Counsel Fees
23 Payment, Litigation Expenses Payment, PAGA Payment, and Settlement Administration Expenses. The
24 Net Settlement Amount will be distributed to Participating Class Members as follows:

25 1. **Individual Settlement Share.** Subject to the terms and conditions of this
26 Agreement, the Settlement Administrator will distribute an Individual Settlement Share from the Net
27 Settlement Amount to each Participating Class Member. The submission of a claim form is not required
28 in order for a Participating Class Member to be paid their Individual Settlement Share.

1 2. **Individual Settlement Share Calculation.**

2 a. After Preliminary Approval of the Settlement, the Settlement Administrator
3 will determine the Workweeks each Class Member worked during the Class Period, divide the Net
4 Settlement Amount by the Workweeks of all Class Members during the Class Period to yield the
5 “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks during the Class
6 Period by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that
7 he or she may be eligible to receive under the Class Settlement.

8 b. After Final Approval of the Settlement, the Settlement Administrator will
9 divide the final Net Settlement Amount by the Workweeks of all Participating Class Members during the
10 Class Period to yield the “Final Workweek Value,” and multiply each Participating Class Member’s
11 individual Workweeks during the Class Period by the Final Workweek Value to yield his or her Individual
12 Settlement Share.

13 3. **Withholding.**

14 a. Each Individual Settlement Share will be allocated as follows: twenty
15 percent (20%) wages (the “Wage Portion”) and eighty percent (80%) penalties, interest, and non-wage
16 damages (“Non-Wage Portion”). The Wage Portion will be reported on an IRS Form W-2 and the Non-
17 Wage Portion will be reported on IRS Form 1099 (if applicable) by the Settlement Administrator. The
18 Settlement Administrator will withhold the employee’s share of taxes and withholdings with respect to
19 the Wage Portion of the Individual Settlement Shares, and issue checks to Participating Class Members
20 for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these
21 taxes and withholdings). The Settlement Administrator will not undertake any withholding with respect
22 to the Non-Wage Portion of Individual Settlement Shares. Any payment for an Individual PAGA
23 Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS
24 Form-1099, if necessary; the Settlement Administrator will not undertake any withholding with respect
25 to the Individual PAGA Payment. Employer Taxes will be paid separately and in addition to the Gross
26 Settlement Amount. Participating Class Members and PAGA Group Members assume full responsibility
27 and liability for any taxes owed on any portion of their Individual Settlement Payment and/or Individual
28 PAGA Payment.

4. **Effect of Non-Participating Class Members.** Non-Participating Class Members will not be issued an Individual Settlement Share, and their Request for Exclusion will not reduce the Gross Settlement Amount or the Net Settlement Amount. Any Non-Participating Class Member's respective estimated Individual Settlement Share will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis.

5. ~~Escalator Clause.~~ **Workweeks Information.** Defendants ~~represent~~previously represented that for the period of September 16, 2015 through September 11, 2023, there were approximately 3,086 Class Members and approximately 103,252 Workweeks worked by Class Members. ~~If it is determined~~On December 17, 2024, Defendants confirmed that due to extraneous information and data that had inadvertently been included and analyzed by them, the ~~total~~-number of Class Members ~~from~~ and Workweeks provided up to and including September 11, 2023 (3,086 Class Members and approximately 103,252 Workweeks) were overstated. Defendants now represent that updated and corrected calculations reflect that for the period of September 16, 2015 through September 11, 2023 is more than 10% above 3,086 (i.e. exceeds 3,395), or the number of 9, 2024 there were approximately 1,425 Class Members and approximately 98,555 Workweeks worked by Class Members ~~during the Class Period~~ is more than 10% above 103,252 (i.e. exceeds 113,577), then Defendants will have. Nevertheless, the Parties agree that even with the ~~option to increase~~updated, reduced number of Class Members and Workweeks, the Gross Settlement Amount ~~on a pro rata basis based on either the number of individuals or Workweeks in excess of ten percent (10%).~~ If Defendants decline to exercise their option to increase the Gross Settlement Amount as provided herein, Plaintiff and Defendants remains fair and reasonable and shall have the right to rescind this Agreement and the Parties shall be returned to their respective positions prior to this Agreement. Defendants will provide sufficient information to the Settlement Administrator to assess whether this ten percent (10%) threshold is triggered. remain the same.

D. **Procedure for Approving Settlement.**

1. **Motion for Preliminary Approval of Settlement by the Court.**

a. After execution of this Settlement Agreement, Plaintiff will file a motion for preliminary approval of the Settlement with the Court for an order granting preliminary approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the "Motion

for Preliminary Approval”). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement will be referred to the mediator or the Court for resolution.

b. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit a proposed order granting Preliminary Approval of the Settlement.

c. Should the Court decline to preliminarily approve material aspects of the Settlement or grant preliminary approval conditioned on any material modification or change to the Settlement (including, but not limited to, the scope of releases of claims or the binding effect of the Settlement on Participating Class Members or PAGA Group Members), the Parties shall work together in good faith to address any concerns raised by the Court and attempt to propose a revised Settlement for the Court’s approval.

2. **Notice to Class Members.** After the Court enters an order granting Preliminary Approval of the Settlement (“Order Granting Preliminary Approval”), every Class Member will be sent the Class Notice as follows:

a. No later than twenty (20) business days after the Court enters an Order Granting Preliminary Approval, Defendants will provide to the Settlement Administrator an electronic database containing the Class Data. If any or all of the Class Data is unavailable to Defendants, Defendants will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, or pursuant to Defendants’ express written authorization or by order of the Court. All Class Data will be used for settlement notification and settlement administration and will not be used for any other purpose by Class Counsel.

b. Using best efforts to mail it as soon as possible, and in no event later than ten (10) business days after receiving the Class Data, the Settlement Administrator will search the U.S. Postal Service’s National Change of Address database to attempt to locate updated mailing addresses for Class Members (and use the updated mailing addresses that are located, in lieu of the mailing address

information provided by Defendants in the Class Data) and mail the Class Notice in English and Spanish to all Class Members via first-class U.S. Mail. The Settlement Administrator will also perform a single email distribution of the Class Notice to all email addresses available within the Class Data.

c. If a Class Notice is returned as undeliverable, and without a forwarding address, on or before the Response Deadline, the Settlement Administrator will promptly, within five (5) calendar days of receipt, search for a more current address for the Class Member by way of skip trace and re-mail the Class Notice to an alternate address located through skip trace. The Settlement Administrator will use the Class Data and otherwise work with Defendants to find a more current address. If a Class Notice is returned as undeliverable, and with a forwarding address, on or before the Response Deadline, the Settlement Administrator will promptly, within five (5) calendar days of receipt, re-mail the Class Notice to the forwarding address. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records the date and address of each such re-mailing and notify Class Counsel and Defendants' Counsel of the re-mailing, as part of a weekly status report provided to the Parties.

d. The Settlement Administrator must, on a weekly basis, provide written reports to Class Counsel and ~~Defense~~Defendants' Counsel that, among other things, tally the number of Class Notices mailed, emailed, or re-mailed, Class Notices returned undelivered, the number of Requests for Exclusion from the Class Settlement, objections to the Class Settlement, and Workweeks Disputes it receives ("Weekly Report").

e. Not later than sixteen (16) court days before the date by which Plaintiff files the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the number of Requests for Exclusion it received (including the numbers of valid and deficient submissions), the names of all Non-Participating Class Members, the number of Workweeks Disputes received (including the numbers of valid and deficient submissions) and the outcome of these disputes, the number of objections received (including the numbers of complete and deficient submissions), and attaching the objections received. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

f. The Settlement Administrator will also host the Class Notice via a content-neutral settlement website managed by the Settlement Administrator. The settlement website will provide contact information for Class Counsel and the Settlement Administrator. The Settlement Administrator will provide Class Counsel and Defendants' Counsel with a preview of the proposed website. Class Counsel and Defendants' counsel must mutually approve the URL for the website and the contents of the website before the website goes live and also must approve any modifications to the website.

3. Objections, Workweeks Disputes, and Requests for Exclusion. Class Members may submit a Request for Exclusion from the Class Settlement, Participating Class Members may submit objections to the Class Settlement (including objections to Class Counsel Fees Payment, Litigation Expenses Payment, and Service Payments), and Class Members and PAGA Group Members may also submit disputes as to Workweeks allocated to them, pursuant to the following procedures:

a. **Requests for Exclusion from the Class Settlement.** The Parties agree, and the Class Notice will provide, that Class Members who wish to exclude themselves from the Class Settlement must send a signed Request for Exclusion to the Settlement Administrator by mail or email, postmarked no later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice ("Response Deadline"). A Request for Exclusion must: (1) contain the case name and number of the Action; (2) state the Class Member's full name, address, telephone number, and last four digits of his or her Social Security number; (3) be signed; and (4) clearly state that the Class Member requests to be excluded from the Class Settlement. If a question is raised about the authenticity of a signed Request for Exclusion, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Class Settlement or to portions of the Final Approval Order and Judgment that apply to the Class Settlement (however, if a Non-Participating Class Member is a PAGA Group Member, he or she will nevertheless be bound to the PAGA Settlement and the portions of the Final Approval Order and Judgment that apply to the PAGA Settlement). A Class Member who does not complete and mail or email a valid and timely Request for Exclusion in the manner and by the deadline specified above will automatically be deemed a Participating Class Member and be bound by all terms and conditions of the Class Settlement, including the release of Released Class Claims, if the Settlement is approved by the Court, and by the Final Approval

Order and Judgment (as it pertains to the Class Settlement), regardless of whether he or she has objected to the Class Settlement. Non-Participating Class Members shall not be permitted to file objections to the Class Settlement or appear at the Final Approval Hearing to voice any objections to the Class Settlement.

All Participating Class Members who do not submit a valid and timely Request for Exclusion will be issued an Individual Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Class Settlement, including without limitation, the release of the Released Class Claims as set forth in this Agreement. Any Class Member who submits a valid and timely Request for Exclusion is nevertheless bound to the PAGA Settlement if he or she is a PAGA Group Member, as well as any judgment that may be entered by the Court if it grants Final Approval to the Settlement, as it pertains to the PAGA Settlement.

b. **Objections to the Class Settlement.** The Parties agree, and the Class Notice will provide, that only Participating Class Members may object to the Class Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator (who will provide copies to the Parties' counsel and attach copies to its declaration that is filed with the Court in advance of the Final Approval Hearing) by mail or email, postmarked no later than the Response Deadline. A written objection must: (1) contain the case name and number of the Action; (2) state the Participating Class Member's full name, address, telephone number, and last four digits of his or her Social Security number; (3) be signed; (4) clearly set forth the grounds for the objection; (5) attach any documentation that the objection is based upon; and (6) identify any counsel representing the Participating Class Member with respect to the objection. In addition to submitting a written objection, or alternatively, Participating Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Class Settlement or any aspect thereof. A Participating Class Member who does not submit an objection in the manner and by the deadline specified above will be deemed to have waived any objection and will be foreclosed from making any objection (whether by appeal or otherwise) to the Class Settlement or any aspect thereof. Non-Participating Class Members shall have no ability to comment on or object to the Class Settlement.

c. **Workweeks Disputes.** The Parties agree, and the Class Notice will provide, that each Class Member and PAGA Group Member may dispute the number of Workweeks

allocated to him or her during the Class Period and/or PAGA Period. Any dispute as to this allocation will be resolved by the Settlement Administrator. Any such dispute must be in writing and sent to the Settlement Administrator, by mail or email, postmarked no later than the Response Deadline. A written dispute (“Workweeks Dispute”) must: (1) contain the case name and number of the Action; (2) state the Class Member’s or PAGA Group Member’s full name, address, telephone number, and last four digits of his or her Social Security number; (3) be signed; (4) clearly state that the Class Member or PAGA Group Member disputes the number of Workweeks credited to him or her and state the number of Workweeks he or she believes are correct; and (5) attach any documentation to support the dispute.

d. **Re-mailed Notice.** In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the original deadline.

4. Right of Defendants to Reject Settlement. If ten percent (10%) or more of the Class Members submit valid and timely Requests for Exclusion, Defendants will have the right, but not the obligation, to void the Settlement and the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Defendants will pay the Settlement Administration Expenses incurred as of the date that Defendants exercise the right to void the Settlement. Defendants will notify Class Counsel in writing and the Court whether it is exercising this right to void no later than seven (7) calendar days after the Settlement Administrator notifies the Parties that the number of valid and timely Requests for Exclusion it has received exceeds ten percent (10%) or more of the Class Members.

5. No Solicitation. The Parties and their counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Class Settlement, appeal from the Final Approval Order and Judgment, or submit Requests for Exclusion from the Class Settlement.

6. Additional Briefing and Final Approval.

a. Plaintiff will file with the Court their application for the Class Counsel Fees Payment, Litigation Expenses Payment, and Service Payment no later than the date on which Plaintiff

1 files the motion for final approval, and not later than sixteen (16) court days before the Final Approval
2 Hearing, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
3 Plaintiff may combine the motion seeking final approval of the settlement with the application for the
4 Class Counsel Fees Payment, Litigation Expenses Payment, and Service Payment. If any opposition is
5 filed, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a
6 reply in support of the motion for Final Approval and/or application for Service Payment, Class Counsel
7 Fees Payment, and Litigation Expenses Payment.

8 b. If the Court does not grant final approval of the Settlement or grants final
9 approval conditioned on any material modification or change to the Settlement (including, but not limited
10 to, the scope of the release of claims with respect to Participating Class Members and/or PAGA Group
11 Members), then the Parties shall work together in good faith to address any concerns raised by the Court
12 and attempt to propose a revised Settlement for the Court's approval. However, an award by the Court of
13 a lesser amount than that sought by Plaintiff and Class Counsel for the Service Payment, Class Counsel
14 Fees Payment, or Litigation Expenses Payment, will not constitute a material modification to the
15 Settlement within the meaning of this Paragraph.

16 c. Upon final approval of the Settlement by the Court at or after the Final
17 Approval Hearing, the Parties will present for the Court's approval and entry a proposed order granting
18 final approval of the Settlement and judgment based thereon ("Final Approval Order and Judgment").
19 After entry of the Final Approval Order and Judgment, the Court will have continuing jurisdiction over
20 the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing
21 settlement administration matters, and (iii) addressing such post-judgment matters as may be appropriate
22 under court rules or applicable law. The entry of the judgment will be pursuant to California Rule of
23 Court 3.769(h) in a form acceptable to the Parties.

24 **7. Waiver of Right to Appeal.** Provided that the Final Approval Order and Judgment
25 is consistent with the terms and conditions of this Agreement, Plaintiff and Participating Class Members
26 who did not timely submit an objection to the Class Settlement, Defendants, and their respective counsel
27 hereby waive any and all rights to appeal from the Final Approval Order and Judgment, including all
28 rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to

vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken from the Final Approval Order and Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Final Approval Order and Judgment becomes final.

8. Vacating, Reversal, or Material Modification of Final Approval Order and Judgment on Appeal or Review. If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Final Approval Order and Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of the release of claims with respect to Participating Class Members and/or PAGA Group Members), and that Court's decision is not completely reversed and the Final Approval Order and Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court. A vacation, reversal, or modification of the Court's award of the Service Payment or the Class Counsel Fees Payment or Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Final Approval Order and Judgment within the meaning of this Paragraph, provided that Defendants' obligation to make payments under this Settlement will remain limited to the Gross Settlement Amount.

9. Procedure for Funding of Settlement. Within thirty (30) calendar days after the Effective Date, Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay their Employer Taxes to the Settlement Administrator.

10. Procedure for Payment of Settlement Payments. The Settlement Administrator shall distribute the following payments: Within ten (10) business days of the funding of the Gross Settlement Amount and Employer Taxes, the Settlement Administrator will mail checks for all Individual Settlement Payments to Participating Class Members, Service Payment to Plaintiff, Individual PAGA Payments to PAGA Group Members, LWDA Payment to the LWDA, the Settlement Administration Expenses to itself (the Settlement Administrator), and Class Counsel Fees Payment and Litigation Expenses Payment to Class Counsel.

11. **Uncashed Individual Settlement Payment and Individual PAGA Payment**

Checks. The Settlement Administrator may, at its discretion, distribute the Individual Settlement Payments and Individual PAGA Payments by way of a single check that combines both payments (if applicable). Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. All funds associated with canceled checks will be transmitted to the *cy pres*, ~~Larkin Street Youth Services~~Children of Shelters, in accordance with California Code of Civil Procedure section 384. The Parties and their counsel each represent they do not have a financial interest in ~~Larkin Street Youth Services~~Children of Shelters or otherwise have a relationship with ~~Larkin Street Youth Services~~Children of Shelters that creates or could create a conflict of interest. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the cancelation of any Individual Settlement Payment checks or Individual PAGA Payment checks. All Participating Class Members and PAGA Group Members shall be bound by the terms and conditions of this Settlement Agreement regardless of whether they cash or otherwise negotiate their Individual Settlement Payment check and/or Individual PAGA Payment check or not.

12. Final Report by Settlement Administrator to Court. Within ten (10) calendar days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will serve on the Parties and file with the Court a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.

E. **Release of Claims.**

1. **Release of Released Class Claims.** Upon the Effective Date, Plaintiff and each Participating Class Member will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties from any and all Released Class Claims. This release and waiver, however, shall be conditional on Defendants' full payment of the Gross Settlement Amount necessary to fund all payment obligations.

2. **Release of Released PAGA Claims.** Upon the Effective Date, Plaintiff, the State of California, and all PAGA Group Members will be deemed to have fully, finally, and forever released,

settled, compromised, relinquished, and discharged the Released Parties from any and all Released PAGA Claims. This release and waiver, however, shall be conditional on Defendants' full payment of the Gross Settlement Amount necessary to fund all payment obligations. PAGA Group Members cannot exclude themselves from the PAGA Settlement.

3. **Plaintiff's Release of Claims.** In addition, upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff will be deemed to have fully released and discharged the Released Parties from any and all claims arising from his employment with Defendants, separation of employment from Defendants, and any acts that have or could have been asserted in any legal action or proceeding against Defendants, whether known or unknown, arising under any federal, state, or local law, or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, Orders of the California Industrial Welfare Commission, California Fair Employment and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date on which the Settlement is executed. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

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

Plaintiff understands and agrees that claims and facts in addition to or different from those which are whether known or believed by him to exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all claims he now has against the Released Parties, whether known or unknown,

1 suspected or unsuspected. The Service Payment will be paid to Plaintiff specifically in exchange for the
2 general release of the Released Parties from all claims, including those specified in this Paragraph and a
3 covenant not to sue the Released Parties. Notwithstanding the above, the general release by Plaintiff shall
4 not extend to claims for enforcement of this Settlement, for workers' compensation benefits, claims for
5 unemployment benefits, or other claims that may not be released by law.

6 F. **No Effect on Other Benefits.** Any payments made under this Settlement will not result
7 in any additional benefit payments (such as 401(k) or bonus) to Plaintiff, Participating Class Members,
8 and PAGA Group Members.

9 G. **Limitation on Public Statements About Settlement.** Plaintiff and Class Counsel
10 represent that they have not and will not issue any press, publications, or other media releases about the
11 Settlement (including, but not necessarily limited to advertising or marketing materials or on social media)
12 or have any communication with the press or media regarding the Settlement. This provision will not
13 prohibit Class Counsel from (i) communicating with Class Members after Preliminary Approval is granted
14 for the sole purpose of administering the Settlement; (ii) complying with ethical obligations; (iii)
15 submitting orders and/or information to the LWDA to comply with the PAGA statute; or (iv) referring to
16 the Action and Settlement in other litigations to support their adequacy as attorneys for a putative class or
17 to justify an award of attorneys' fees. Plaintiff and Class Counsel agree not to respond to any media
18 inquiries except to refer reporters to the papers filed with the Court. Defendants may disclose information
19 regarding the Settlement under its contractual and legal obligations.

20 H. **Miscellaneous Terms.**

21 1. **No Admission of Liability or Class Certification for Other Purposes.**

22 a. Defendants and the Released Parties deny that they have engaged in any
23 unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under
24 the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action.
25 This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing
26 in this Agreement is intended or will be construed as an admission of liability or wrongdoing by
27 Defendants or the Released Parties, or an admission by Plaintiff that any of the claims were non-
28 meritorious or any defense asserted by Defendants was meritorious. This Settlement and the fact that

1 Plaintiff and Defendants were willing to settle the Action will have no bearing on, and will not be
2 admissible in connection with, any litigation (other than solely in connection with effectuating the
3 Settlement pursuant to this Agreement).

4 b. Whether or not the Final Approval Order and Judgment becomes final,
5 neither the Settlement, this Agreement, any document, statement, proceeding, or conduct related to the
6 Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as,
7 offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to
8 Plaintiff or Defendants or any of the Released Parties, including, but not limited to, evidence of a
9 presumption, concession, indication, or admission by any of the Released Parties of any liability, fault,
10 wrongdoing, omission, concession, or damage; or (ii) disclosed, referred to, or offered in evidence against
11 any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal, or
12 administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this
13 Agreement.

14 c. This section and all other provisions of this Agreement notwithstanding,
15 any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all
16 proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any
17 claims released or barred by this Agreement.

18 2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties
19 and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties
20 relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants,
21 or inducements have been made to any Party concerning this Agreement or its exhibits other than the
22 representations, warranties, covenants, and inducements expressly stated in this Agreement and its
23 exhibits.

24 3. **Attorney Authorization.** The Parties and their counsel will cooperate with each
25 other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are
26 unable to reach agreement on the form or content of any document needed to implement the Agreement,
27 or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement,
28 the Parties will seek the assistance of a mediator for resolution.

1 4. **No Prior Assignments:** The Parties represent, covenant, and warrant that they have
2 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber
3 to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released
4 and discharged in this Settlement.

5 5. **No Tax Advice:** Neither Class Counsel nor Defendants' Counsel intend for
6 anything contained in this Settlement to constitute advice regarding taxes or taxability, nor will anything
7 in this Settlement be relied upon as such within the meaning of United States Treasury Department
8 Circular 230 (31 CFR Part 10, as amended) or otherwise. Except as provided above, neither Defendants,
9 Employers, and Released Parties, nor their counsel, shall have any liability for any tax implications related
10 to the receipt of settlement funds herein, including by the Court-appointed third-party administrator; any
11 and all such liability and/or obligations shall be borne solely by the payee recipients of any funds to be
12 paid by Defendants and Employers herein.

13 6. **Modification of Agreement.** This Agreement, and any and all parts of it, may be
14 amended, modified, changed, or waived only by an express written instrument signed by counsel for the
15 Parties, subject to Court approval. Counsel for all Parties may amend or modify this Agreement as needed
16 without signatures from their respective clients. The Parties agree that this Agreement may be signed
17 electronically.

18 7. **Agreement Binding on Successors.** This Agreement will be binding upon, and
19 inure to the benefit of, the successors or assigns of each of the Parties.

20 8. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will
21 be governed by and interpreted according to the laws of the State of California.

22 9. **Cooperation in Drafting.** The Parties have cooperated in the drafting and
23 preparation of this Agreement. This Agreement will not be construed against any Party on the basis that
24 the Party was the drafter or participated in the drafting, it being recognized that, because of the arms-
25 length negotiations between the Parties, all Parties have contributed equally to the preparation of this
26 Settlement Agreement.

27 10. **Fair Settlement.** The Parties and their respective counsel believe and warrant that
28 this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this

Agreement through arms-length negotiations, taking into account all relevant factors, current and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

11. **Use of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendants in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule.

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

13. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

14. **All Terms Subject to Final Court Approval.** All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

15. **Posting of the Final Approval Order and Judgment.** The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website within three (3) business days of receipt, and shall maintain the posting for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment will be required to be provided to the Class.

16. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

Edwin Aiwazian
Arby Aiwazian
Joanna Ghosh
~~Vartan Madoyan~~

1 Tara Zabehi
2 **LAWYERS for JUSTICE, PC**
3 410 West Arden Avenue, 450 North Brand Blvd., Suite 203900
4 Glendale, California 91203
5 Tel.: (818) 265-1020
6 Fax: (818) 265-1021
7 E-Mail: edwin@calljustice.com; ~~arby@calljustice.com~~; arby@calljustice.com;
8 joanna@calljustice.com; ~~vartan~~ tara@calljustice.com

9 *To Defendants:*

10 Marie Trimble Holvick
11 Matthew Wayne
12 **Gordon Rees Scully Mansukhani LLP**
13 272 Battery Street, Suite 2000
14 San Francisco, California 94111
15 Tel: (415) 986-5900
16 Fax: (415) 986-8054
17 E-Mail: ~~mholvick@grsm.com~~; mwayne@grsm.com; mholvick@grsm.com;
18 ~~mwayne@grsm.com~~;

19 17. **Execution in Counterparts.** This Agreement may be executed in one or more
20 counterparts by facsimile, electronically, or email which for purposes of this Agreement will be accepted
21 as an original. All executed counterparts and each of them will be deemed to be one and the same
22 instrument provided that counsel for the Parties will exchange between themselves signed counterparts.
23 Any executed counterpart will be admissible in evidence to prove the existence and contents of this
24 Agreement.

25 18. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the
26 Action under California Code of Civil Procedure section 664.6 to ensure the continuing implementation
27 of this Agreement and enforcement of the Settlement until performance in full of the terms of this
28 Settlement.

[Signatures included on next page]

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendants:

IT IS SO AGREED.

**REPRESENTATIVE PLAINTIFF ERICKSON
MARTINEZ**

Dated: _____, ~~2024~~2025

Erickson Martinez, Plaintiff

DEFENDANT BACK OF THE HOUSE, LLC

Dated: _____, 20242025

Back of the House, LLC, Defendant

By:
Title:

DEFENDANT EBURGER, LLC

Dated: _____, 20242025

EBurger, LLC, Defendant

By:
Title:

DEFENDANT JBURGER, LLC

Dated: _____, 2024 _____ 2025

JBurger, LLC, Defendant

By: _____
Title: _____

DEFENDANT MISSION 98 SUPER, LLC

Dated: _____, 2024 _____ 2025

Mission 98 Super, LLC, Defendant

By:
Title:

///

///

1 ///

2 **DEFENDANT MBURGER, LLC**

3
4 Dated: _____, 2024 _____ 2025

5 MBurger, LLC, Defendant

6 By:

7 Title:

8 **DEFENDANT 2355 TELEGRAPH AVE, LLC**

9 Dated: _____, 2024 _____ 2025

10 2355 Telegraph Ave, LLC, Defendant

11 By:

12 Title:

13 **DEFENDANT THE VERANDA SUPER, LLC**

14 Dated: _____, 2024 _____ 2025

15 The Veranda Super, LLC, Defendant

16 By:

17 Title:

18 **DEFENDANT 5399 PROSPECT ROAD, LLC**

19 Dated: _____, 2024 _____ 2025

20 5399 Prospect Road, LLC, Defendant

21 By:

22 Title:

23 **DEFENDANT SUPER EMERYVILLE, LLC**

24 Dated: _____, 2024 _____ 2025

25 Super Emeryville, LLC, Defendant

26 By:

27 Title:

28 **DEFENDANT DBURGER, LLC**

1 Dated: _____, 2024 _____ 2025

2
3 DBurger, LLC, Defendant
4 By:
5 Title:

6 ///

7 **DEFENDANT METBURGER, LLC**

8 Dated: _____, 2024 _____ 2025

9 MetBurger, LLC, Defendant
10 By:
11 Title:

12 **DEFENDANT SUPER NOVATO, LLC**

13 Dated: _____, 2024 _____ 2025

14 Super Novato, LLC, Defendant
15 By:
16 Title:

17 **DEFENDANT SUPER LOS GATOS, LLC**

18 Dated: _____, 2024 _____ 2025

19 Super Los Gatos, LLC, Defendant
20 By:
21 Title:

22 **DEFENDANT KBURGER, LLC**

23 Dated: _____, 2024 _____ 2025

24 KBurger, LLC, Defendant
25 By:
26 Title:

27 **DEFENDANT ADRIANO PAGANINI**

28 Dated: _____, 2024 _____ 2025

Adriano Paganini, Defendant

DEFENDANT EDMONDO SARTI

Dated: _____, ~~2024~~ _____ 2025

Edmondo Sarti, Defendant

///

///

AGREED AS TO FORM:

Dated: _____, ~~2024~~ 2025

LAWYERS for JUSTICE, PC

By: _____

Joanna Ghosh

~~Vartan Madoyan~~

Tara Zabeji

Attorneys for Plaintiffs

Dated: _____, ~~2024~~ 2025

GORDON REES SCULLY MANSUKHANI, LLP

By: _____

Marie Trimble Holvick

Matthew Wayne

Attorneys for Defendants

EXHIBIT 4

CASE NAME: SUPER DUPER BURGERS

Requesting Attorney: Stephen Wilson
Plaintiff or Defense: Plaintiff
Firm Name: Lawyers for Justice
Telephone: (818) 265-1020
Email: stephen@calljustice.com

Date: January 30, 2025
Prepared By: Ryan Schley, Esq.
 50 Corporate Park, Irvine CA 92606
 Ryan@CPTGroup.com
Direct Number: (949) 358-0404
Main Number: (800) 542-0900

PROJECT ASSUMPTIONS & ADMINISTRATIVE COSTS

Class Size: 3,086	Undeliverable Mail Rate: 8%
Opt-Out Filing Rate: 1.5%	Payment Option: Check
No. of Checks Issued: 3,040	Unclaimed Funds: Cy Pres
Language Translation Services: Yes	Postage Total: \$5,227.32
Settlement Website: Interactive Website	Grand Total: \$41,434.31
Notice Procedures: Mail & Email	CPT'S DISCOUNTED FEE: \$29,000.00

NOT TO EXCEED: \$37,500.00

The services and numbers reflected herein are estimates based on the information provided by counsel at the time of this Bid. If the actual services and numbers are different, our cost estimate will change accordingly. Client expressly acknowledges and agrees that estimated fees and costs may fluctuate and agrees to pay for any such increases to such estimates as if set forth herein.

The attached Terms and Conditions are included as part of and incorporated by reference to our cost proposal. By accepting our cost proposal for this matter, you are thereby agreeing to the Terms and Conditions.

CASE SETUP

After receiving the data, CPT will scrub all records to eliminate duplicates and anomalies; this process is designed to achieve a higher success percentage in delivering the Class Notice. Each Class Member will receive a unique mailing ID that will be utilized for all administrative purposes. CPT will setup and maintain a dedicated case email address. The Settlement website will publish the full Notice and all relevant case documents for downloading and opt-out filing. Notice to be translated into Spanish.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	7	\$665.00
Programming: Data Base Setup	\$150.00	7	\$1,050.00
Dedicated Case Email Address	\$150.00	2	\$300.00
W&H - Interactive Website	\$2,500.00	1	\$2,500.00
Spanish Translation	\$1,200.00	1	\$1,200.00
Sub Total:			\$5,715.00

DIRECT EMAIL NOTIFICATION

Counsel estimates that Defendant will provide email addresses for all Class Members. Before email notification, CPT will perform a third-party email validation scan to improve the success rate of deliverability and reduce the number of undeliverable emails.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager-Email Notice Format	\$95.00	2	\$190.00
Third-Party Email Validation	\$0.10	3,086	\$308.60
Email Notification: Setup/Establish/Formatting	\$150.00	4	\$600.00
Email Notification: Segmentation/Sending	\$150.00	6	\$900.00
Email Notification: Reporting/Monitoring	\$250.00	2	\$500.00
Email Summary Notices: Initial Notification (100%)	\$0.15	3,086	\$462.90
Updated Database: Undeliverable Email (10%)	\$0.15	309	\$46.29
Sub Total:			\$3,007.79

DIRECT MAIL NOTIFICATION

CPT will perform an address update via NCOA and, if necessary, conduct an additional skip trace in order to ensure that mail is delivered to the most current address possible. A detailed notice and a one-page opt-out form will be mailed in English and Spanish.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Format Documents	\$95.00	2	\$190.00
National Change of Address Search (NCOA)	\$250.00	1	\$250.00
XML Lex ID Skip Trace	\$0.75	309	\$231.75
Print & Mail Notice Packets	\$1.50	3,086	\$4,629.00
First-Class Postage (up to 2 oz.)*	\$0.97	3,086	\$2,993.42
Sub Total:			\$8,294.17

*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

PROCESS RETURNED UNDELIVERABLE MAIL

According to CPT's historical data, 8% of the notices are returned as undeliverable. Upon notification from USPS, CPT performs a skip trace to locate a current address. Typically, 70% of the undeliverable notice packets are eligible for remail with an updated address.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Clerical Staff	\$60.00	5	\$300.00
Update Undeliverable Mail Database	\$0.50	247	\$123.50
Skip Trace for Best Address	\$0.75	220	\$165.00
Print & Remail Notice Packets	\$1.50	173	\$259.50
First-Class Postage (up to 2 oz.)	\$0.97	173	\$167.81
Sub Total:			\$1,015.81

OPT-OUT PROCESSING

CPT will thoroughly examine the submissions to identify and remove any duplicates, fraudulent responses, or otherwise invalid submissions. CPT will process and verify opt-outs, objections, and other responses submitted by class members. Deficient responses will be sent a follow-up notice, offering the class member a chance to cure.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: De-duplication/Scrubbing	\$150.00	7	\$1,050.00
Project Manager: Validate Opt-Outs	\$95.00	1	\$95.00
Clerical Staff	\$60.00	1	\$60.00
Opt-Out Processing	\$2.50	46	\$115.73
Print & Mail Deficiency/Dispute Notices	\$1.50	3	\$4.50
First-Class Postage (up to 1 oz.)	\$0.69	3	\$2.07
Review & Process Deficiency Responses	\$10.00	2	\$20.00
Sub Total:			\$1,347.30

CLASS MEMBER SUPPORT

CPT will establish a toll-free telephone number equipped with interactive voice response (IVR) capabilities and live customer support representatives. Live support will be available during regular business hours, Monday to Friday, 9:00 AM to 5:30 PM, Pacific Time (PT). The dedicated case phone number shall be operational for a maximum of 120 days following the disbursement.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Live Call Center Support Reps.	\$3.00	618	\$1,854.00
Sub Total:			\$2,154.00

SSN VERIFICATION

Authenticate Social Security Number for validity using IRS verification processes and/or IRS backup withholdings processes.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	3,040	\$303.97
Sub Total:			\$738.97

DISTRIBUTION SERVICES

CPT will establish a 26 CFR § 1.468B-1 compliant Qualified Settlement Fund (QSF). Upon Final Approval, CPT will perform the required settlement payment calculations, and once approved by the parties, CPT will issue a (MICR) check to all eligible claimants. CPT will also issue an IRS Form 1099 and/or IRS Form W2 when applicable. CPT utilizes the bank's Payee Positive Pay to prevent check fraud and performs monthly account reconciliations for the QSF bank account. Undeliverable checks are skip-traced to obtain a current address and are remailed accordingly. Requests for check reissues will be processed throughout the check cashing period. CPT's administration of the QSF will continue for a maximum duration of one year following the initial distribution of funds.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	9	\$1,350.00
Project Manager: Correspondence w/Parties	\$95.00	5	\$475.00
Programming: Setup & Printing of Checks	\$150.00	5	\$750.00
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Print & Mail Notice, Checks & W2/1099	\$2.50	3,040	\$7,599.28
First-Class Postage (up to 1 oz.)	\$0.62	3,040	\$1,884.62
Project Supervisor: Account Reconciliation	\$150.00	12	\$1,800.00
Update Undeliverable Checks Database	\$0.50	152	\$75.99
Skip Trace for Best Address	\$1.00	152	\$151.99
Remail Undeliverable Checks	\$2.50	138	\$345.00
First-Class Postage (up to 1 oz.)	\$0.69	138	\$95.22
Re-Issue Checks as Required	\$5.00	122	\$610.00
First-Class Postage (up to 1 oz.)	\$0.69	122	\$84.18
Sub Total:			\$16,121.27

TAX REPORTING & SETTLEMENT CONCLUSION

CPT prepares annual tax reporting on behalf of the QSF and Federal and State taxes in accordance with current state and federal regulations. All parties will be furnished with weekly and final reports. A declaration attesting to due process will be provided to all parties. Unclaimed funds sent to Cy Pres.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CA Tax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
Unclaimed Funds Sent to Cy Pres	No Fee	1	No Fee
Sub Total:			\$3,040.00

*CPT will file Federal and California taxes in accordance with current state and federal regulations. Additional charges will apply if the Settlement/Order/parties require(s) multiple state tax filings.

Total Administration Costs:	\$41,434.31
Courtesy Discount:	-\$12,434.31
CPT'S DISCOUNTED FLAT FEE:	\$29,000.00

TERMS AND CONDITIONS

These Terms and Conditions (“**Terms and Conditions**”) are made a part of, and incorporated by reference into, any Bid presented by CPT Group, Inc. (“**CPT**”) to Client. Each of Client and CPT is a “**Party**” to this Agreement, and collectively, the “**Parties**”.

1. Definitions.

- a) “**Affiliate**” means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with another party.
- b) “**Agreement**” means these Terms and Conditions and the Bid.
- c) “**Applicable Laws**” means all applicable local, state and federal laws, ordinances, rules and regulations.
- d) “**Approved Bank**” means any financial institution that is insured by the Federal Deposit Insurance Corporation.
- e) “**Bid**” means a proposal, statement of work, order form, and/or schedule for Services (including any and all addendums, exhibits, or amendments thereto) provided by CPT to Client.
- f) “**Case**” means the case referred to in the attached Bid and/or the particular judicial matter identified by the name of plaintiff(s) and defendant(s) on the caption of the applicable Court Order.
- g) “**Class**” means Members and putative Members collectively.
- h) “**Client**” means the party or parties engaging CPT for Services as set forth in the Bid, namely Plaintiff Counsel and/or Defense Counsel.
- i) “**Confidential Information**” means any non-public information of CPT or Client disclosed by either Party to the other Party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other Party may have access, which a reasonable person would consider confidential and/or which is marked “confidential” or “proprietary” or some similar designation by the disclosing Party. Confidential Information shall also include the terms of this Agreement, except where this Agreement specifically provides for disclosure of certain items. Confidential Information shall not, however, include the existence of the Agreement or any information which the recipient can establish: (i) was or has become generally known or available or is part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient’s prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently developed by the recipient, where such independent development has been documented by the recipient.
- j) “**Court Order**” means a legal command or direction issued by a court, judicial office, or applicable administrative body requiring one or more Parties To The Case to carry out a legal obligation pursuant to the Case.
- k) “**Defendant**” means the named Party and/or Parties in the Case against whom action is brought.
- l) “**Defense Counsel**” means the attorney(s) of record for the Defendant(s) in the Case.
- m) “**Intellectual Property Right**” means any patent, copyright, trade or service mark, trade dress, trade name, database right, goodwill, logo, trade secret right, or any other intellectual property right or proprietary information right, in each case whether registered or unregistered, and whether arising in any jurisdiction, including without limitation all rights of registrations, applications, and renewals thereof and causes of action for infringement or misappropriation related to any of the foregoing.
- n) “**Member**” means an individual who is eligible under the Case or Class to receive a communication about their pending legal rights under the matter and/or designated amount of the Settlement, including the named Plaintiff(s) in the Case and all other putative persons or other parties in the representative action so designated or addressed therein.
- o) “**Member Content**” means all Member written document communications relating to the Case, including claim forms, opt-out forms, and/or objections, which may contain Member Data.
- p) “**Member Data**” means proprietary or personal data regarding Members under this Agreement.
- q) “**Parties To The Case**” shall mean collectively Defendant(s) and Plaintiff(s) as defined in the Settlement Agreement or Court Order.
- r) “**Plaintiff**” means the named party and/or parties in the Case who are bringing the action.
- s) “**Plaintiff Counsel**” means the attorney(s) of record for Plaintiff(s) in the Case, and/or upon certification by the Court the attorney(s) of record designated to represent the Class.
- t) “**Products**” means any and all CPT Services and work product resulting from Services.

- u) “**Qualified Settlement Fund**” or “**QSF**” means a bank account established pursuant to U.S. Department of Treasury Regulations §1468B-1.
 - v) “**Service**” means any service rendered by CPT specifically to Client, including, but not limited to: (i) notifications to Members; (ii) setting up a QSF with an Approved Bank; (iii) management of disbursement of funds from the QSF to applicable parties pursuant to the Settlement Agreement; (iv) provision of customer support relating to the Case; (v) management of Case claim forms and correspondence; and/or (vi) any administrative or consulting service.
 - w) “**Settlement Agreement**” means the contract between Parties To The Case to resolve the same, which specifies amounts to be disbursed from the Qualified Settlement Fund to attorneys, CPT, and individual Members.
 - x) “**Settlement Amount**” means the total dollar amount agreed to between Parties To The Case to resolve the Case to mutual satisfaction.
 - y) “**Software**” means any and all of CPT’s software applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto.
 - z) “**Transmission Methods**” means the secure authorized manner to send Member Data and/or Wire Information as specified on a schedule or exhibit hereto.
 - aa) “**Term**” means the period commencing on the date set forth on the Bid and continuing until the date of final judgment (if a settlement) or upon completion of all Services as set forth in the Bid.
 - bb) “**Wire Information**” means instructions for (i) Defense Counsel to transfer funds from Defendant to the Qualified Settlement Fund or (ii) CPT to transfer funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement.
2. Client Obligations. Client will ensure that it has obtained all necessary consents and approvals for CPT to access and use Member Data for the purposes permitted under this Agreement and shall only transmit Member Data and/or Wire Information to CPT via the Transmission Methods. Client shall use and maintain appropriate administrative, technical, and physical safeguards designed to protect Member Data provided under this Agreement. Client further warrants that any Member Data, Wire Information, or other content, data, materials or information it transmits shall be free of viruses, worms, Trojan horses, or other harmful or disabling codes which could adversely affect Member Data and/or CPT. If Client is in breach of this section, CPT may suspend Services, in addition to any other rights and remedies CPT may have at law or in equity.
3. CPT Obligations. CPT will (i) maintain appropriate safeguards designed to protect Member Data, including regular back-ups, security and incident response protocols, and (ii) not access or disclose Member Data except (A) as compelled by law, (B) to prevent or address service or technical issues, (C) in accordance with this Agreement or the provisions of the Settlement Agreement, or (D) if otherwise permitted by Parties To The Case, Members, Plaintiff Counsel or Defense Counsel as applicable.
4. Security. Client and CPT shall each use reasonable administrative, technical, and physical safeguards that are reasonably designed to: (a) protect the security and confidentiality of any Member Data in its possession or control under this Agreement; (b) protect against any anticipated threats or hazards to the security or integrity of such Member Data; (c) protect against unauthorized access to or use of such Member Data that could result in substantial harm or inconvenience to any individual; and (d) protect against unauthorized access to or use of such Member Data in connection with its disposal.
- a) Incident Notification. In the event a Party discovers that Member Data relating to the Case is the subject of (i) any unauthorized acquisition, loss, access or use and/or (ii) an actual or suspected breach concerning such Party’s systems (items (i) and/or (ii) a “**Security Incident**”), or a Party has a reasonable belief that a Security Incident has occurred or is at risk of occurring, such Party will promptly but no later than forty-eight (48) hours of its discovery of such circumstances, inform the other Parties in the event of such Security Incident, and shall utilize best efforts to assist the other Parties to mitigate the effects of such Security Incident.
 - b) b) Response Procedures. In the event of a Security Incident, the breached party shall (i) cooperate with any reasonable investigation concerning the Security Incident by the other Parties, regulators and/or law enforcement; and (ii) cooperate with the other Parties to comply with Applicable Laws concerning such Security Incident, including any notification to affected individuals. The Parties acknowledge that the breached party in any Security Incident shall be the Party responsible for

any and all remedies and costs under Applicable Laws concerning such Security Incident, unless such breach occurred due to another Party's actions hereunder, in which instance such party shall be comparatively responsible for all remedies and costs. In no event will any Party serve notice or otherwise publicize a Security Incident without the prior written consent of the other Parties. The Parties shall reasonably cooperate and coordinate with each other to respond to the Security Incident, including with regard to the content of notification to affected individuals.

6. Qualified Settlement Fund Account. When the Case has a Settlement Amount CPT shall be authorized to establish one or more QSF bank accounts at an Approved Bank if and as applicable to the Services as set forth in the Bid. The amounts held at the Approved Bank under this Agreement are at the sole risk of Defendant. Without limiting the generality of the foregoing, CPT shall have no responsibility or liability for any diminution of the funds that may result from the deposit thereof at the Approved Bank, including deposit losses, credit losses, or other claims made against the Approved Bank. It is acknowledged and agreed that CPT has acted reasonably and prudently in depositing funds at an Approved Bank, and CPT is not required to conduct diligence or make any further inquiries regarding such Approved Bank.
7. Fees and Payment. Pricing for Services is as stated on the Bid, and Client agrees to pay CPT in the amounts set forth on the Bid. Client will be invoiced per the schedule set forth in the Bid, and payment of fees will be due within 30 days after the date of the invoice, except where the Bid or terms of the Settlement Agreement or Court Order expressly prescribes other payment dates. All fees set forth in a Bid are in U.S. dollars, must be paid in U.S. dollars, and are exclusive of taxes and applicable transaction processing fees. Late payments hereunder will incur a late charge of 1.5% per month (or the highest rate allowable by law, whichever is lower) on the outstanding balance from the date due until the date of actual payment, which such late charge(s) may be charged against the QSF account if incurred in connection with Services provided pursuant to administration of a settlement. In addition, Services are subject to suspension for failure to timely remit payment therefor. If travel is required to effect Services, Client shall reimburse CPT for pre-approved, reasonable expenses arising from and/or relating to such travel, including, but not limited to, airfare, lodging, meals, and ground transportation. . In connection with CPT's administration of a QSF, unless otherwise stated in the Settlement Agreement or Court Order concerning disbursement of unclaimed funds in the QSF account, CPT reserves the right, after one (1) year of issuance of disbursements to Members, to classify any remaining balance in such QSF account as additional administrative fees payable to CPT until such time as the QSF account balance becomes zero (\$0.00), and thereafter close such account.
8. Term and Termination.
 - a) Term. The Term is set forth in the Bid. The Agreement may be renewed by mutual written agreement of the parties.
 - b) Termination for Cause. Either Party may immediately terminate this Agreement if the other Party materially breaches its obligations hereunder, and, where capable of remedy, such breach has not been materially cured within forty-five (45) days of the breaching Party's receipt of written notice describing the breach in reasonable detail.
 - c) Bankruptcy Events. A Party may immediately terminate this Agreement if the other Party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.
 - d) Effect of Termination. Immediately following termination of this Agreement, upon written request, Member Data may be retrieved via the secure FTP site in the same format in which the Member Data was originally inputted into the Software, at no additional charge. Alternatively, Member Data can be returned in a mutually agreed format at a scope and price to be agreed upon. CPT will maintain a copy of Member Data and Member Content for no more than four (4) years following the date of the final check cashing deadline for Members under the Settlement Agreement, after which time any Member Data and Member Content not retrieved will be destroyed.
 - e) Final Payment. If Client terminates this Agreement due to Section "Termination", Client shall pay CPT all fees owed through the termination date. If CPT terminates the Agreement in accordance with Section "Termination," Client shall pay CPT all fees invoiced through the termination date, plus all fees remaining to be invoiced during the Term, less any costs CPT would have incurred had the Agreement not been terminated.
9. Confidentiality. Each Party agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of CPT providing Products hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such Party's rights and responsibilities under this Agreement; and (iii)

to keep the Confidential Information confidential using the same degree of care such Party uses to protect its own confidential information; provided, however, that such Party shall use at least reasonable care. These obligations shall survive termination of this Agreement.

- a) Compelled Disclosure. If receiving Party is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of law, such Party shall (i) promptly notify the other Party, (ii) reasonably cooperate with the other Party in such Party's efforts to prevent or limit such compelled disclosure and/or obtain confidential treatment of the items requested to be disclosed, and (iii) shall disclose only that portion of such information which each Party is advised by its counsel in writing is legally required to be disclosed.
- b) Remedies. If either Party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other Party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.
10. Intellectual Property. CPT retains all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Products. CPT does not claim any ownership rights to Member Data.
11. Indemnification. Client agrees to indemnify, defend, and hold harmless CPT, its Affiliates, and the respective officer, directors, consultants, employees, and agents of each (collectively, "**Covered CPT Parties**") from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) (collectively, "**Damages**") incurred or suffered by CPT which directly relate to or directly arise out of (i) Client's breach of this Agreement; (ii) CPT's performance of Services hereunder; (iii) the processing and/or handling of any payment by CPT; (iv) any content, instructions, information or Member Data provided by Client to CPT in connection with the Services provided by CPT hereunder. The foregoing provisions of this section shall not apply to the extent the Damages relate to or arise out of CPT's willful misconduct. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.
12. Warranties. Each Party represents and warrants to the other Party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such Party; (iii) the Agreement is a legally valid and binding obligation of such Party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. CPT WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CPT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE
13. Liability.
 - a) Liability Cap. EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL FEES PAID OR PAYABLE BY CLIENT AND/OR THE PARTIES TO THE CASE TO CPT HEREUNDER. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND CPT ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
 - b) Exclusion of Consequential Damages. NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. Communications. CPT may list Client's name and logo alongside CPT's other clients on the CPT website and in marketing materials, unless and until Client revokes such permission. CPT may also list the Case name and/or number, and

certain Qualified Settlement Fund information, on the CPT website and in marketing materials, unless stated otherwise in the Settlement Agreement.

15. Miscellaneous Provisions.

- a) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America, without regard to conflict of law principles. CPT and Client agree that any suit, action or proceeding arising out of, or with respect to, this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts of the State of California located in the County of Orange, and each of CPT and Client hereby irrevocably accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.
- b) Force Majeure. Neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, acts or omissions of vendors or suppliers, equipment failures, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such Party's reasonable control, provided that the delayed Party: (i) gives the other Party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
- c) Counterparts. This Agreement may be executed in any number of counterparts and electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.
- d) Entire Agreement. This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between the Parties with respect to such subject matter. The schedules and exhibits hereto constitute a part hereof as though set forth in full herein.
- e) Modifications. Any modification, amendment, or addendum to this Agreement must be in writing and signed by the Parties.
- f) Assignment. Neither Party may assign this Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without the other Party's prior written consent; provided, however, either Party, without the consent of the other Party, may assign this Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such Party, where the responsibilities or obligations of the other Party are not increased by such assignment and the rights and remedies available to the other Party are not adversely affected by such assignment. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and permitted assigns.
- g) No Third-Party Beneficiaries. The representations, warranties, and other terms contained herein are for the sole benefit of the Parties hereto and their respective successors and permitted assigns and shall not be construed as conferring any rights on any other persons.
- h) Statistical Data. Without limiting the confidentiality rights and Intellectual Property Rights protections set forth in this Agreement, CPT has the perpetual right to use aggregated, anonymized, and statistical data ("**Statistical Data**") derived from the operation of the Software, and

nothing herein shall be construed as prohibiting CPT from utilizing the Statistical Data for business and/or operating purposes, provided that CPT does not share with any third-party Statistical Data which reveals the identity of Client, Client's Class Members, or Client's Confidential Information.

- i) Export Controls. Client understands that the use of CPT's Products is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such Applicable Laws, including the Export Administration Regulations maintained by the U.S. Department of Commerce and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- j) Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- k) Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by electronic delivery, or mailed by registered or certified mail, return receipt requested and postage prepaid to the address for the other Party as set forth on the Bid or at such other address as may hereafter be furnished in writing by either Party hereto to the other Party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of electronic delivery (if followed up by such registered or certified mail); and five days after being so mailed.
- l) Independent Contractors. Client and CPT are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and CPT. Each Party understands that it does not have authority to make or accept any offers or make any representations on behalf of the other. Neither Party may make any statement that would contradict anything in this section.
- m) Subcontractors. CPT may use subcontractors to perform Client-specific Services; provided however, that CPT shall be responsible for its subcontractors' performance of Services under this Agreement.
- n) Headings. The headings of the sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret, or construe its meaning, scope or intent.
- o) Waiver. No failure or delay on the part of either Party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power, or remedy.
- p) Acceptance. If, when requested in writing by Client, CPT then provides any Service to Client, whether or not such Services were specified in the original Bid, these Terms and Conditions shall apply to the provision of such Services and be deemed accepted and approved by Client concerning such Services.
- q) Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.

EXHIBIT 5