

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Hyunjin Kim (SBN 345518)
MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: afeghali@moonlawgroup.com
E-mail: hkim@moonlawgroup.com

Attorneys for Plaintiff Isabel Guillen

SEYFARTH SHAW LLP
Timothy M. Rusche (SBN 230036)
trusche@seyfarth.com
601 S. Figueroa Street, Suite 3300
Los Angeles, California 90071
Telephone: (213) 270-9600
Facsimile: (213) 270-9601

*Attorneys for Defendant
Kerr Corporation*

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

ISABEL GUILLEN, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

KERR CORPORATION, a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendant.

Case: 30-2021-01217243-CU-OE-CXC

Assigned to Hon. William Claster,

Dept. CX101

**REVISED CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT**

Action Filed: August 20, 2021

1 This Class and Representative Action Settlement Agreement is between (1)
2 Plaintiff Isabel Guillen—individually and on behalf of the Class Members defined
3 below—and (2) Defendant Kerr Corporation (collectively, the “Parties”). By this
4 Agreement, the Parties intend, with judicial approval, to settle the Action (defined
5 below). If this Agreement is not finally approved, or is otherwise nullified, then the
6 Parties shall return to their positions preceding this Agreement and Defendant shall retain
7 all rights to challenge Plaintiff’s claims and the certification of any class, unless the
8 Parties agree to seek reconsideration of the ruling or Court approval of a renegotiated
9 agreement.

TABLE OF CONTENTS

	Page
	Page
1. Definitions	1
1.1. Action	1
1.2. Administrative Costs	1
1.3. Agreement	1
1.4. California Released Claims	1
1.5. Class Counsel	1
1.6. Class Counsel Award	1
1.7. Class Members	1
1.8. Class Period	1
1.9. Class Representative.....	2
1.10. Complaint	2
1.11. Consideration Period	2
1.12. Court	2
1.13. Defendant	2
1.14. Defense Counsel.....	2
1.15. Effective Date	2
1.16. Fairness Hearing.....	2
1.17. Final Approval Order	2
1.18. Gross Settlement Amount	2
1.19. Individual Settlement Payment	3
1.20. Judgment	3
1.21. LWDA	3
1.22. Net Settlement Amount.....	3

1	1.23. Notice of Settlement.....	3
2	1.24. Objection	3
3	1.25. Objector	3
4	1.26. PAGA Employee.....	3
5	1.27. PAGA Payment	3
6	1.28. PAGA Period.....	4
7	1.29. Parties	4
8	1.30. Plaintiff	4
9	1.31. Preliminary Approval.....	4
10	1.32. Qualified Settlement Fund	4
11	1.33. Released PAGA Claims	4
12	1.34. Released Parties.....	4
13	1.35. Request for Exclusion	5
14	1.36. Service Award	5
15	1.37. Settlement Administrator	5
16	1.38. Settlement Class	5
17	1.39. Settlement Period	5
18	2. Recitals and Procedural History	5
19	2.1. Business of Defendant.....	5
20	2.2. Allegations in Complaint	5
21	2.3. Defendant’s Denials	6
22	2.4. Class Counsel’s Investigation	6
23	2.5. Negotiation of Settlement.....	6
24	2.6. Certification for Settlement Purposes	6
25	3. The Gross Settlement Amount	7
26	4. The Net Settlement Amount.....	7
27	4.1. Calculation of the Amount	7
28		

1	4.2. Calculation of Estimated Individual Settlement Amounts.....	7
2	5. Selection of Settlement Administrator and Notice of Settlement	7
3	5.1. Selection of Settlement Administrator	7
4	5.2. Settlement Administration.....	7
5	5.3. Confidential Data for the Settlement Administrator	8
6	5.4. Mailing Materials to Class Members	8
7	5.5. Proof of Mailing	9
8	6. Responses to Notice of Settlement	9
9	6.1. Consideration Period	9
10	6.2. Requests for Exclusion and Opt Out Rights	9
11	6.2.1. Opt Out Procedure	9
12	6.2.2. Effect of Opting Out.....	10
13	6.2.3. Tolerance of Opt-Outs—Defendant’s Right to Withdraw	10
14	6.3. Objections.....	10
15	6.3.1. Objection Procedure	10
16	6.3.2. Obligations of Individuals Who Object	11
17	6.4. Proof of Responses	11
18	6.5. Binding Effect of Settlement.....	11
19	6.6. No Interference with Class Member Responses	11
20	7. Administration of Settlement Proceeds	11
21	7.1. Final Funding of Gross Settlement Amount	11
22	7.2. Administrative Costs	11
23	7.3. Class Counsel Award	11
24	7.3.1. Approval of Class Counsel Award Not Material	12
25	7.3.2. Timing of Class Counsel Award	12
26	7.4. Service Award	12
27	7.4.1. Approval of Service Award Not Material	12
28		

1	7.4.2. Timing of Service Award.....	12
2	7.5. PAGA Payment	13
3	7.5.1. Reduction of PAGA Payment Not Material.....	13
4	7.5.2. Timing of PAGA Payment	13
5	7.6. Individual Settlement Payments.....	13
6	7.6.1. Individual Settlement Payment	13
7	7.7. Timing of Individual Settlement Payments.....	14
8	7.8. Tax Allocation of Individual Settlement Payments	14
9	7.8.1. Responsibility for Taxes.....	14
10	7.8.2. Approval of Tax Allocations Not Material	14
11	7.9. Undeliverable or Uncashed Checks	14
12	7.10. Certification of Completion	15
13	8. Releases	15
14	8.1. Claims Released by Settlement Class Members	15
15	8.2. Claims Released by PAGA Employees	16
16	8.3. Additional Release by Class Representative.....	16
17	9. Settlement Approval Procedure.....	16
18	9.1. Motion for Preliminary Approval	16
19	9.1.1. Contents of Motion.....	17
20	9.1.2. Notice to LWDA	17
21	9.2. Motion for Final Approval	17
22	9.3. Motion for Class Counsel Award.....	17
23	9.4. Motion for Service Award.....	17
24	9.5. Entry of Judgment	17
25	9.5.1. Notice of Final Judgment	18
26	9.5.2. Effect of Failure to Obtain Final Judgment.....	18
27	9.6. Appeal Rights	18
28		

1	10. Miscellaneous	18
2	10.1. Execution of this Agreement.....	18
3	10.1.1. Parties' Authority	19
4	10.1.2. Counterparts	19
5	10.1.3. Scanned Signatures.....	19
6	10.2. Discharge of Obligations.....	19
7	10.3. Construction	19
8	10.3.1. Materiality of Terms.....	19
9	10.3.2. No Construction Against the Author.....	20
10	10.3.3. Exhibits Incorporated by Reference	20
11	10.3.4. Headings	20
12	10.3.5. Invalidity of Any Provision.....	20
13	10.3.6. Parties' Entire Agreement	20
14	10.3.7. Waivers and Modifications to Be in Writing	20
15	10.3.8. Governing Law	21
16	10.4. The Parties estimate that as of the date of mediation, Class Members	
17	worked 25,118 workweeks.....	21
18	10.5. Inadmissibility of Settlement Documents	21
19	10.6. No Tax Advice	21
20	10.7. No Impact on Employee Benefits	21
21	10.8. No Prior Assignments or Undisclosed Liens	22
22	10.9. Cooperation of the Parties	22
23	10.9.1. Affirmative Duty to Cooperate.....	22
24	10.9.2. Language of Settlement Documents	22
25	10.9.3. Refraining from New Proceedings	23
26	10.9.4. No Solicitation of Objections or Opt Outs	23
27	10.9.5. Waiver of Right to Object by Class Representative.....	23
28	10.10. Confidential Information.....	23

10.11.No Media Announcements or Other Undue Publicity	23
10.12.Disputes	24

EXHIBITS

Notice of Settlement..... A

1 **1. Definitions.**

2 The following definitions apply to this Agreement. Each defined term appears
3 throughout in initial capital letters.

4 **1.1. Action.** “Action” means the lawsuit entitled *Isabel Guillen v. Kerr*
5 *Corporation*, filed August 20, 2021 in the Superior Court of the State of California for
6 the County of Orange as Case No. 30-2021-01217243-CU-OE-CXC, and all complaints
7 filed therein.

8 **1.2. Administrative Costs.** “Administrative Costs” means all costs that the
9 Settlement Administrator incurs in administering this Agreement.

10 **1.3. Agreement.** “Agreement” means this Class and Representative Action
11 Settlement Agreement, which includes all its Recitals and all the attached Exhibits.

12 **1.4. California Released Claims.** “California Released Claims” means all state-law
13 claims that this Agreement will extinguish as to all Class Members who do not submit a
14 Request for Exclusion.

15 **1.5. Class Counsel.** For purposes of providing any notice under this Agreement,
16 “Class Counsel” shall refer to Kane Moon, Allen Feghali, and Hyunjin Kim of Moon
17 Law Group,¹ PC, 1055 W. Seventh Street, Suite 1880, Los Angeles, California 90017.

18 **1.6. Class Counsel Award.** “Class Counsel Award” refers to the amount of
19 attorney’s fees and costs that the Court awards in connection with resolving the Action in
20 accordance with this Agreement.

21 **1.7. Class Members.** “Class Members” refers to those individuals who for
22 purposes of this Agreement will be certified as members of the class, defined as follows:
23 all individuals whom Defendant employed as nonexempt employees in California at any
24 time during the Settlement Period for Class Members who did not enter arbitration or
25 severance agreements with Defendant.

26 **1.8. Class Period.** See “Settlement Period.”

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28

¹ Formerly Moon & Yang, APC

1 **1.9. Class Representative.** “Class Representative” refers to Plaintiff Isabel
2 Guillen.

3 **1.10. Complaint.** “Complaint” refers to any and all complaints filed in the Action.

4 **1.11. Consideration Period.** “Consideration Period” refers to the 60 calendar
5 days following initial mailing of the Notice of Settlement, during which an individual can
6 submit an Objection or a Request for Exclusion.

7 **1.12. Court.** “Court” refers to judge William Claster or any other judicial officer
8 presiding over this Action in the California Superior Court for the County of Orange.

9 **1.13. Defendant.** “Defendant” refers to Kerr Corporation.

10 **1.14. Defense Counsel.** “Defense Counsel” refers to Seyfarth Shaw LLP. For
11 purposes of providing any notices required under this Agreement, Defense Counsel shall
12 refer to Timothy M. Rusche, trusche@seyfarth.com.

13 **1.15. Effective Date.** “Effective Date” shall be the later of (a) the Court’s final
14 approval of the Agreement, if no objections have been filed, (b) the time of appeal has
15 expired if an objection has been filed, (c) or the final resolution of any appeal that has
16 been filed.

17 **1.16. Fairness Hearing.** “Fairness Hearing” is the hearing at which the Court
18 decides whether the terms of the Agreement are fair, reasonable, and adequate and meet
19 all requirements for Final Approval.

20 **1.17. Final Approval Order.** “Final Approval Order” is the order the Court
21 issues, in connection with the Fairness Hearing, that approves this Agreement.

22 **1.18. Gross Settlement Amount.** “Gross Settlement Amount” refers to the maximum
23 payment Defendant may be obligated to make in connection with the Agreement:
24 \$550,000. This sum includes all Individual Settlement Payments (including any employer
25 payroll taxes), any Service Award, the PAGA Payment, Administrative Costs, and the
26 Class Counsel Award.

1 **1.19. Individual Settlement Payment.** “Individual Settlement Payment” refers to
2 the amount the Settlement Administrator distributes from the Net Settlement Amount to
3 each Settlement Class Member.

4 **1.20. Judgment.** “Judgment” refers to the final judgment entered by the Court in
5 this Action after finally approving the Agreement.

6 **1.21. LWDA.** “LWDA” refers to the California Labor & Workforce Development
7 Agency, which enforces the Private Attorney General Act of 2004 (“PAGA”), and which
8 receives the LWDA portion of the PAGA Payment.

9 **1.22. Net Settlement Amount.** “Net Settlement Amount” refers to the portion of
10 the Gross Settlement Amount that remains after accounting for any Service Award, the
11 PAGA Payment, employer payroll taxes, Administrative Costs, and the Class Counsel
12 Award.

13 **1.23. Notice of Settlement.** “Notice of Settlement” means a notice of the terms of
14 the Agreement, substantially in the form attached as Exhibit A.

15 **1.24. Objection.** “Objection” refers to a written statement timely submitted to the
16 Settlement Administrator that contains (1) the Objector’s full name and current mailing
17 address, (2) the last four digits of the Objector’s social security number, (3) the specific
18 reason(s) for the Objection, and (4) all evidence and supporting papers (including,
19 without limitation, all briefs, written evidence, and declarations) for the Court to
20 consider.

21 **1.25. Objector.** “Objector” refers to a Settlement Class Member who has
22 submitted an Objection or a Class Member who otherwise objects to the Settlement.

23 **1.26. PAGA Employee.** “PAGA Employee” refers to all individuals whom
24 Defendant employed as nonexempt employees in California at any time during the PAGA
25 Period who did not enter severance agreements with Defendant.

26 **1.27. PAGA Payment.** “PAGA Payment” refers to a payment in settlement of a
27 claim for civil penalties under the Private Attorney General Act of 2004, 75% shall be
28 payable to the LWDA and 25% shall be payable to PAGA Employees.

1 **1.28. PAGA Period.** “PAGA Period” refers to the period beginning on August 17,
2 2020 through March 8, 2023.

3 **1.29. Parties.** “Parties” refers collectively to (1) Plaintiff and (2) Defendant.

4 **1.30. Plaintiff.** “Plaintiff” refers to Class Representative Isabel Guillen.

5 **1.31. Preliminary Approval.** “Preliminary Approval” refers to the court order
6 granting preliminary approval of this Agreement.

7 **1.32. Qualified Settlement Fund.** “Qualified Settlement Fund” means a qualified
8 settlement fund established pursuant to U.S. Treasury Regulation section 468B-1, 29
9 C.F.R. § 468B-1.

10 **1.33. Released PAGA Claims.** “Released PAGA Claims” refers to all claims for
11 penalties and any other available relief under PAGA that were or could have been
12 asserted in this Action based on or arising out of the facts alleged in this Action and
13 Plaintiff’s letter to the LWDA, dated August 17, 2021, irrespective of the liability theory,
14 including, but not limited to claims for unpaid wages, minimum wage, overtime, off-the-
15 clock work, claims for missed meal or rest breaks, claims for meal or rest break penalties,
16 claims for unreimbursed employee business expenses, claims for failure to provide
17 accurate itemized wage statements, claims for liquidated damages, interest, penalties,
18 attorneys’ fees, wage-statement penalties, and “waiting time” penalties, claims for
19 withholding from wages, and claims under the applicable Wage Order and Labor Code
20 sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194,
21 1197, 1197.1, 1198, 2699, and 2802.

22 **1.34. Released Parties.** “Released Parties” refers to Defendant and each and all of
23 its current or former subsidiaries, parents, affiliates, joint ventures, predecessors, insurers,
24 agents, employees, successors, assigns, officers, officials, directors, attorneys, personal
25 representatives, executors, and shareholders, including their respective pension, profit
26 sharing, savings, health, and other employee benefits plans of any nature, the successors
27 of such plans, and those plans’ respective current or former trustees and administrators,
28 agents, employees, and fiduciaries.

1 **1.35. Request for Exclusion.** “Request for Exclusion” refers to a timely, written,
2 opt-out request signed by a Class Member and submitted to the Settlement Administrator
3 with the following information: (1) the Class Member’s full name and current mailing
4 address, (2) the last four digits of the Class Member’s social security number, (3) an
5 express statement that the Class Member wishes to be excluded from the terms of the
6 Agreement.

7 **1.36. Service Award.** “Service Award” refers to any payment that the Court
8 awards for service as a Class Representative and for entering into special agreements
9 described in Paragraph 8 of this Agreement.

10 **1.37. Settlement Administrator.** “Settlement Administrator” refers to the third-
11 party administrator, identified below, that the Parties select.

12 **1.38. Settlement Class.** “Settlement Class” refers to all Class Members who do
13 not file a timely and valid Request for Exclusion.

14 **1.39. Settlement Period.** “Settlement Period for Class Members” refers to the
15 period beginning on August 17, 2017 through March 8, 2023.

16 **2. Recitals and Procedural History**

17 **2.1. Business of Defendant.** Defendant develops, manufactures, and markets
18 products for the restorative dentistry industry, including composites and cements,
19 endodontic supplies, rotary devices, and infection control products.

20 **2.2. Allegations in Complaint.** On August 20, 2021, Plaintiff filed a putative
21 class action in Orange County Superior Court, alleging various wage and hour claims.
22 The Action has asserted claims for (1) failure to pay minimum wages (Cal. Lab. Code §§
23 204, 1194, 1194.2, and 1197); (2) failure to pay overtime compensation (Cal. Lab. Code
24 §§ 1194 and 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512);
25 (4) failure to authorize and permit rest breaks (Cal. Lab. Code § 226.7) ; (5) failure to
26 indemnify business expenses (Cal. Lab. Code § 2802); (6) failure to timely pay final
27 wages at termination (Cal. Lab. Code §§ 201-203); (7) failure to provide accurate
28 itemized wage statements (Cal. Lab. Code § 226); (8) unfair business practices (Cal. Bus.

1 & Prof. Code §§ 17200, et seq.; and (9) civil penalties under PAGA (Cal. Lab. Code §§
2 2699, et seq.)

3 **2.3. Defendant's Denials.** Defendant denies (1) all the material allegations in
4 this Action, (2) that Defendant violated any applicable laws, (3) that Defendant is liable
5 for damages, penalties, interest, restitution, attorneys' fees, or costs, or for any other
6 remedy on account of the claims asserted in the Action, and (4) that class certification or
7 representative treatment is appropriate as to any claim in the Action. Defendant contends
8 that its policies, procedures, and practices comply with all laws asserted in the Action.
9 Defendant has agreed to settle the Action solely to avoid the burden, expense, and
10 uncertainty of litigation. Any statements in this Agreement are made for settlement
11 purposes only.

12 **2.4. Class Counsel's Investigation.** Class Counsel has investigated the facts
13 relating to the claims alleged in the Action and also has analyzed all defenses. Class
14 Counsel interviewed Class Members regarding the claims in the Action, and has
15 examined Defendant's compliance with its policies, procedures, and practices.

16 **2.5. Negotiation of Settlement.** Class Counsel has engaged in arms-length
17 negotiations with Defendant with a view toward achieving substantial benefits while
18 avoiding the cost, delay, and uncertainty of further litigation. Plaintiff will urge that the
19 Court approve this Agreement after considering (1) the factual and legal defenses to the
20 claims asserted, which render uncertain the ultimate outcome of the Action, (2) the
21 potential difficulties Plaintiff would encounter in establishing her claims and maintaining
22 class treatment, (3) the substantial benefits produced by this Agreement, (4) that this
23 Agreement provides relief in an expeditious and efficient manner, compared to any
24 manner of recovery possible after litigation and potential appeal, and (5) that this
25 Agreement allows Class Members to opt out of the Action and individually pursue the
26 claims alleged on behalf of the class in the Action.

27 **2.6. Certification for Settlement Purposes.** This Agreement is contingent upon
28 approval of class certification under California Code of Civil Procedure Section 382 for

1 settlement purposes only, and the execution of a general release and confidential
2 settlement agreement by Plaintiff. Defendant expressly reserves the right to challenge the
3 propriety of class certification or representative treatment for any other purpose should
4 the Court not approve the Agreement.

5 **3. The Gross Settlement Amount.** The Gross Settlement Amount is \$550,000. In no
6 event shall Defendant, absent a further agreement, be obligated to pay more than that
7 amount. The Gross Settlement Amount includes all Individual Settlement Payments, any
8 Service Award, the Class Counsel Award, the employer's share of payroll taxes on any
9 Individual Settlement Payments constituting wages, the PAGA Payment, and
10 Administrative Costs.

11 **4. The Net Settlement Amount.**

12 **4.1. Calculation of the Amount.** The Net Settlement Amount is the portion of
13 the Gross Settlement Amount that remains after deducting amounts for any Service
14 Award, the PAGA Payment, Administrative Costs, the employer's share of payroll taxes
15 on any Individual Settlement Payments constituting wages, and the Class Counsel Award.

16 **4.2. Calculation of Estimated Individual Settlement Amounts.** Estimated
17 Individual Settlement Payments will be calculated on the basis of the number of work
18 weeks actually worked and attributed to a Class Member in proportion to the total
19 number of work weeks actually worked and attributed to all Class Members from August
20 20, 2017 through March 8, 2023, following the formula described in Section 7 of this
21 Agreement, on the assumption that each eligible individual will fully participate in the
22 Agreement.

23 **5. Selection of Settlement Administrator and Notice of Settlement**

24 **5.1. Selection of Settlement Administrator.** The Parties will mutually select a
25 qualified claims administrator to serve as the Settlement Administrator before the hearing
26 on Preliminary Approval.

27 **5.2. Settlement Administration.** The Settlement Administrator will, as
28 necessary, print, copy, format, and translate materials, mail notices in English and

Spanish to Class Members, perform a skip trace for undeliverable addresses, establish and maintain a Qualified Settlement Fund, obtain appropriate tax identification numbers, calculate Individual Settlement Payments, calculate payroll withholdings and payroll taxes, prepare and file all required tax forms, mail Individual Settlement Payments and tax forms to federal and state agencies, establish a hotline telephone number for class member communications, post notices regarding settlement on the Settlement Administrator's website, remit all tax payments and required documentation to taxing authorities, implement the process for any uncashed settlement checks, and perform all other duties associated with settlement administration, including, but not limited to, all those specified in this Agreement. Any dispute relating to settlement administration shall, after good-faith efforts by the Parties to resolve the dispute, be referred to the Court.

5.3. Confidential Data for the Settlement Administrator. Within 14 calendar days of Preliminary Approval, Defendant will give the Settlement Administrator a confidential class list containing the names, employee ID numbers, last known address and telephone number(s), dates of employment, and numbers of work weeks actually worked by Class Members and PAGA Employees from August 20, 2017 through the end of the respective Settlement or PAGA Periods. Defendant shall also provide, when needed, social security numbers to facilitate the administration of this Agreement. The Settlement Administrator shall keep the class data provided by Defendant strictly confidential and shall use the class data only for the purposes described in this Agreement, and shall return the class data to Defendant or confirm the destruction of same upon completing the work called for by this Agreement. Notwithstanding the foregoing, the Settlement Administrator may provide Class Counsel with a redacted list of potential Individual Settlement Payments, which shall not include Class Member names or addresses or identify any Class Member by name or address.

5.4. Mailing Materials to Class Members. Within 45 calendar days of Preliminary Approval, the Settlement Administrator shall send the Notice of Settlement to Class Members via First Class U.S. mail, using the last-known mailing address for

1 each Class Member. Any mailing returned as undeliverable shall be sent within five
2 calendar days via First Class U.S. Mail to any available forwarding address. If no
3 forwarding address is available, then the Settlement Administrator shall attempt to
4 determine the correct address by using a computer-based skip-trace search, and shall then
5 perform, if feasible, a re-mailing via First Class U.S. Mail within five calendar days. If no
6 current address is available for a Class Member, then the Notice of Settlement for that
7 Class Member will be deemed undeliverable. Only one re-mailing is required. If a Class
8 Member cannot be located within two attempts at mailing, then the Notice of Settlement
9 for that Class Member will be deemed undeliverable.

10 **5.5. Proof of Mailing.** At least five calendar days prior to the Fairness Hearing,
11 the Settlement Administrator shall provide a declaration of due diligence and proof of
12 mailing with regard to the mailing of the Notice of Settlement to Class Counsel and
13 Defense Counsel, which they shall in turn provide to the Court.

14 **6. Responses to Notice of Settlement**

15 **6.1. Consideration Period.** Within the Consideration Period, Class Members
16 may opt out of the proposed class action settlement by submitting a Request for
17 Exclusion (as provided below) or may submit a dispute (as provided for in the Notice of
18 Settlement) or may submit an Objection (as provided below). Except as specifically
19 provided herein, no response postmarked after the Consideration Period shall be
20 considered.

21 **6.2. Requests for Exclusion and Opt Out Rights.** Class Members will have the
22 opportunity to opt out by submitting a Request for Exclusion.

23 **6.2.1. Opt Out Procedure.** Class Members may opt out of the class
24 action settlement by mailing the Settlement Administrator a Request for Exclusion. A
25 Request for Exclusion, to be valid, must be signed and dated by the Class Member, must
26 provide the Class Member's full name (and former names, if applicable), current address,
27 current telephone number, and the last four digits of the Class Member's social security
28 number, and must include an express statement that the Class Member wishes to be

1 excluded from the terms of the class settlement. Any Request for Exclusion that does not
2 include all of the required information or that is not submitted in a timely manner will be
3 deemed ineffective. However, the Settlement Administrator shall, within 5 business days
4 of receipt of an insufficient Request for Exclusion, attempt to contact the Class Member
5 to remedy any deficiency.

6 **6.2.2. Effect of Opting Out.** Any Class Member who opts out of the
7 class settlement may not submit an Objection, shall not receive any Individual Settlement
8 Payment, and shall not be bound by the releases that this Agreement entails; provided,
9 however, any such Class Member employed at any time within one year of the filing of
10 the Action shall still receive a pro rata portion of the PAGA Payment distributed to the
11 Net Settlement Amount and be bound by the release of PAGA claims contained herein.
12 Each Class Member who does not submit a timely, valid Request for Exclusion shall be
13 bound by the releases that this Agreement entails.

14 **6.2.3. Tolerance of Opt-Outs—Defendant’s Right to Withdraw.** If
15 the number of Class Members who opt out by submitting Requests for Exclusion exceeds
16 5 percent of the total number of Class Members, then Defendant may, in the exercise of
17 its sole discretion, withdraw from this Agreement. Defendant’s right to withdraw expires
18 15 business days after the Consideration Period.

19 **6.3. Objections.** Unless otherwise provided in this Agreement, only those Class
20 Members who do not submit a Request for Exclusion shall be entitled to object to the
21 terms of the Agreement.

22 **6.3.1. Objection Procedure.** Any Objection should be made using
23 the procedures set forth in the Notice of Settlement, and should contain (1) the Objector’s
24 full name and current mailing address, (2) the last four digits of the Objector’s social
25 security number, (3) the specific reason(s) for the Objection, and (4) all evidence and
26 supporting papers (including, without limitation, all briefs, written evidence, and
27 declarations) for the Court to consider.
28

1 **6.3.2. Obligations of Individuals Who Object.** Objectors can appear
2 at the Fairness Hearing either in person or through counsel, irrespective of whether they
3 submit an Objection. An Objection may be withdrawn at any time.

4 **6.4. Proof of Responses.** At least five calendar days prior to the Fairness
5 Hearing, the Settlement Administrator will prepare a declaration to submit to the Court
6 regarding responses to the Notice of Settlement, including such information as any
7 inability to deliver mailings because of invalid addresses, the number of any Requests for
8 Exclusion, and the number of any Objections.

9 **6.5. Binding Effect of Settlement.** Although a Class Member might not timely
10 submit an Objection or a Request for Exclusion because of inability to locate the Class
11 Member's current address, or for other reasons beyond the Class Member's control, that
12 Class Member shall nonetheless be bound by this Agreement.

13 **6.6. No Interference with Class Member Responses.** Each Party agrees not to
14 encourage any Class Member to submit an Objection or a Request for Exclusion and
15 agrees not to retaliate against any Class Member for participating in this Agreement.

16 **7. Administration of Settlement Proceeds**

17 **7.1. Final Funding of Gross Settlement Amount.** Within 30 business days of
18 the Effective Date, Defendant will deposit the Gross Settlement Amount into the
19 Qualified Settlement Fund.

20 **7.2. Administrative Costs.** Administrative Costs shall not exceed \$20,000,
21 which shall be a payment from the Gross Settlement Amount. The amount of
22 Administrative Costs is not a material term: if the Court approves a lesser amount, then
23 the other terms of this Agreement shall remain in effect.

24 **7.3. Class Counsel Award.** Class Counsel intend to request—and Defendant
25 agrees not to oppose—a payment from the Gross Settlement Amount for (a) attorney's
26 fees in an amount up to 33% of the Gross Settlement Amount and (b) litigation costs
27 actually incurred in representing the interests of the class, supported by adequate
28 documentation, in an amount up to \$20,000.

1 **7.3.1. Approval of Class Counsel Award Not Material.** Approval of
2 the Class Counsel Award is not a material term. If the Court approves only a lesser
3 amount, then the other terms of this Agreement shall remain in effect.

4 **7.3.2. Timing of Class Counsel Award.** The Settlement
5 Administrator shall issue the Class Counsel Award within 30 days of Defendant's
6 funding of the Settlement. Within 10 calendar days after the Effective Date, Class
7 Counsel shall instruct the Settlement Administrator as to how the Class Counsel Award
8 may be paid. The Settlement Administrator shall issue an appropriate Internal Revenue
9 Service Form 1099 to Class Counsel. Class Counsel shall be solely responsible for paying
10 all applicable taxes on any Class Counsel Award and shall indemnify and hold harmless
11 Defendant from any claim or liability for taxes, penalties, or interest arising as a result of
12 the Class Counsel Award. Plaintiff, Class Counsel, and the Settlement Class waive any
13 additional claim for attorneys' fees and costs incurred in connection with the Lawsuit.

14 **7.4. Service Award.** Class Counsel intends to request a payment from the Gross
15 Settlement Amount for a Service Award for the Class Representative in an amount up to
16 \$7,500. Any Service Award would be in addition to the Class Representative's Individual
17 Settlement Payment.

18 **7.4.1. Approval of Service Award Not Material.** Approval of a
19 Service Award is not a material term. If the Court does not approve a Service Award or
20 approves only a lesser amount than that requested, then the other terms of this Agreement
21 shall remain in effect.

22 **7.4.2. Timing of Service Award.** The Settlement Administrator shall
23 pay any Service Award within 30 days of Defendant's funding of the Settlement, and
24 shall issue an IRS Form 1099 to the Class Representative. The Class Representative shall
25 be solely responsible for paying all applicable taxes on any Service Award and shall
26 indemnify and hold harmless Defendant from any claim or liability for taxes, penalties, or
27 interest arising as a result of the Service Award.
28

1 **7.5. PAGA Payment.** The Parties will seek approval for a PAGA Payment from
2 the Gross Settlement Amount in the amount of \$75,000, 75% of which will go to the
3 LWDA and 25% of which will go to PAGA Employees, who shall receive a pro rata
4 share based on the pay periods each PAGA Employee actually worked during the PAGA
5 Period. Notwithstanding anything else in this Agreement, Class Members employed at
6 any time within one year before the filing of the Action who submit a valid Request for
7 Exclusion shall receive their pro rata share of the 25% of the PAGA Payment paid to
8 PAGA Employees and shall be bound by the PAGA Release.

9 **7.5.1. Reduction of PAGA Payment Not Material.** Any reduction in
10 the requested PAGA Payment is not a material term. If the Court approves only a lesser
11 amount than that requested, then the other terms of this Agreement shall remain in effect.
12 But some approval of a PAGA Payment is a material term. If the Court does not approve
13 a PAGA Payment, then the entire Agreement will be, at Defendant's sole discretion, void
14 and unenforceable.

15 **7.5.2. Timing of PAGA Payment.** The Settlement Administrator
16 shall pay the PAGA Members and 75% of any approved PAGA Payment to the LWDA
17 by 30 calendar days after the Effective Date.

18 **7.6. Individual Settlement Payments.** Each Settlement Class Member shall be
19 entitled to an Individual Settlement Payment consisting of a share of the Net Settlement
20 Amount, calculated as described below. Defendant's time records regarding the number
21 of weeks worked shall control for purposes of calculation.

22 **7.6.1. Individual Settlement Payment.** Each Settlement Class
23 Member's Individual Settlement Payment is the number of workweeks actually worked
24 and attributed to the Settlement Class Member from during the Settlement Period for
25 Class Members, divided by the Total Settlement Class Member workweeks actually
26 worked, and multiplied by the Net Settlement Amount. Otherwise stated, the formula for
27 a Class Member is: (individual's workweeks ÷ Total Settlement Class workweeks) * Net
28 Settlement Amount.

1 **7.7. Timing of Individual Settlement Payments.** The Settlement Administrator
2 shall issue Individual Settlement Payments no later than 15 business days after the
3 Defendant funds the Gross Settlement Amount.

4 **7.8. Tax Allocation of Individual Settlement Payments.** Each Individual
5 Settlement Payment will be allocated for tax purposes as follows: 2/3 Form 1099 income
6 for statutory and civil penalties and interest, 1/3 Form W-2 income for wages. Any Class
7 Member payment consisting solely of a share of the PAGA Payment shall be allocated
8 for tax purposes solely as Form 1099 income. The Settlement Administrator will make
9 required tax withholdings from each Individual Settlement Payment for the portion
10 allocated to Form W-2 income and will remit the withholding and the employer's share
11 of payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall
12 issue any necessary IRS Form 1099 and Form W-2 statements to Class Members for their
13 respective Individual Settlement Payments.

14 **7.8.1. Responsibility for Taxes.** Class Members and PAGA
15 Employees shall be solely responsible for paying all taxes due on their respective
16 payments and shall indemnify and hold harmless Defendant and the Released Parties
17 from any claim or liability for taxes, penalties, or interest arising as a result of the
18 payments.

19 **7.8.2. Approval of Tax Allocations Not Material.** Approval of the
20 allocations of the payments set forth above is not a material term. If the Court approves a
21 different tax allocation of the payments, then the other terms of this Agreement shall
22 remain in effect.

23 **7.9. Undeliverable or Uncashed Checks.** All individual settlement checks will
24 remain negotiable for 180 days from the date of their mailing. The Settlement
25 Administrator shall notify Class Counsel and Defense Counsel of any undeliverable and
26 uncashed checks. After 180 days from the mailing, the amount of any settlement checks
27 from the California Released Claims Amount that has not been cashed will be direct to
28 the California Controller in the Class Member's name. If, after all payments the Parties

1 have directed have issued, there remains any unpaid residue, then, uncashed checks shall
2 be voided and the principal for those uncashed checks shall be paid to the California
3 Controller in the Class Member's name.

4 **7.10. Certification of Completion.** Upon fully administering this Agreement, the
5 Settlement Administrator will certify the completion to the Court and counsel for all
6 Parties in a declaration, summarizing the total money paid and the status of any uncashed
7 checks.

8 **8. Releases.** Upon the final approval by the Court of the Settlement and Defendant's
9 payment of all sums due pursuant to the Settlement to a Qualified settlement Fund, and
10 except as to such rights or claims as may be created by the Settlement, the Class
11 Representatives, the Class and each Class Member who has not submitted a valid and
12 timely request for exclusion as to claims other than the PAGA claim, and each PAGA
13 Employee, regardless of whether they have requested exclusion from the Settlement of
14 Class claims, will release claims as follows:

15 **8.1. Claims Released by Settlement Class Members.** Each and every
16 Settlement Class Member—and each Settlement Class Member's executors,
17 administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or
18 guardians—releases Released Parties from the following claims for the entire Settlement
19 Period:

20 (1) any and all claim asserted in the Action, or that could have been
21 asserted based on the facts alleged in the Action, irrespective of the liability theory,
22 including but not limited any claims under state law, claims for unpaid wages, minimum
23 wage, overtime, off-the-clock work, claims for missed meal or rest breaks, claims for
24 meal or rest break penalties, claims for unreimbursed employee business expenses,
25 claims for failure to provide accurate itemized wage statements, claims for liquidated
26 damages, interest, penalties, attorneys' fees, wage-statement penalties, and "waiting
27 time" penalties, claims for withholding from wages, and claims under the applicable Wage
28 Order and Labor Code sections 201-204, 210, 216, 218.5, 218.6, 226, 226(a), 226.3,

226.7, 510, 512, 512.5 558, 1174, 1174(d), 1174.5, 1194, 1194(a), 1194.2, 1197, 1198, 2802, 2802(b), and 2802(c), as well as claims under the California Business & Professions Code §§ 17200 et seq. (“Released Claims”);

8.2. Claims Released by PAGA Employees. Each and every PAGA Employee—and each PAGA Employee’s executors, administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians—, releases the Released Parties from the Released PAGA Claims, regardless of whether they requested exclusion from the Settlement.

8.3. Additional Release by Class Representative. In addition to the release given by each Settlement Class Member, the Class Representative generally releases claims against each Released Party through the date of Final Approval. This general release includes claims arising from the Class Representative’s relationship with Defendant, including, without limitation, claims for unpaid wages and liquidated damages, under the Fair Labor Standards Act, claims for discrimination, harassment, or retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000 *et seq.*, the California Fair Employment and Housing Act, California Gov’t Code Section 12900 *et seq.*, and claims for violation of public policy. This general release by the Class Representative also includes a waiver of rights under California Civil Code Section 1542, which states:

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.

9. Settlement Approval Procedure.

9.1. Motion for Preliminary Approval. Plaintiff will obtain a hearing to request preliminary approval of this Agreement, to obtain entry of an order that would (i) conditionally certify a settlement class for settlement purposes only, (ii) grant preliminary approval of this Agreement, (iii) approve a Notice of Settlement, (iv) enjoin Class Members from initiating or prosecuting any claim to be released under this Agreement,

1 unless they first submit a Request for Exclusion, and (v) set a date for a Final Approval
2 hearing.

3 **9.1.1. Contents of Motion.** The motion for preliminary approval shall
4 include the bases for demonstrating that conditional certification of a settlement class is
5 appropriate, and that the settlement amounts are reasonable in light of the facts and law
6 pertaining to the claims alleged. The motion shall be accompanied by a signed
7 declaration by Class Counsel discussing the risks of continued litigation and the decision
8 that this Agreement serves the best interests of class members. Before filing any motion,
9 Class Counsel will consider in good faith any comments by Defendant's counsel.

10 **9.1.2. Notice to LWDA.** Upon moving for preliminary approval,
11 Plaintiff will also submit the proposed settlement agreement to the LWDA, pursuant to
12 Labor Code section 2699(1)(2).

13 **9.2. Motion for Final Approval.** Class Counsel will obtain a hearing for a
14 Motion for Final Approval, to obtain an order to (a) approve this Agreement, (b) adjudge
15 its terms to be fair, reasonable, and adequate, (c) recite the Released Claims and the
16 PAGA Released Claims, (d) direct that the terms of the Agreement be carried out, and (e)
17 retain jurisdiction to oversee enforcement of this Agreement.

18 **9.3. Motion for Class Counsel Award.** In connection with a Motion for Final
19 Approval, Class Counsel may move for approval of an attorneys' fees and costs award in
20 the amount of (a) up to 33% of the Gross Settlement Amount for fees and (b) up to
21 \$20,000 for litigation costs actually incurred in representing the interest of the Class,
22 supported by adequate documentation.

23 **9.4. Motion for Service Award.** In connection with a Motion for Final
24 Approval, Class Counsel may move for approval of a Service Award for each Class
25 Representative in an amount of up to \$7,500, to which Defendant may object.

26 **9.5. Entry of Judgment.** Upon Final Approval, the Parties shall request that the
27 Court (a) enter Judgment in accordance with this Agreement, without further fees or
28 costs, (b) enter an order as to the Class Counsel Award, (c) enter an order as to any

1 Service Award, (d) enter an order permanently enjoining all members of the Settlement
2 Class from pursuing or seeking to reopen claims that have been released by this
3 Agreement, and (e) enter an order requiring any Settlement Class Member who files suit
4 against Defendant for a reason covered by the releases pay Defendant's reasonable
5 attorneys' fees and costs if not withdrawn upon notice thereof.

6 **9.5.1. Notice of Final Judgment.** Notice of Judgment will be posted
7 on the Settlement Administrator's website.

8 **9.5.2. Effect of Failure to Obtain Final Judgment.** If the Court fails
9 to enter Judgment in accordance with this Agreement, or if the Judgment is vacated or
10 reversed, then the Action shall proceed and the Parties shall split the Administrative
11 Costs, unless the Parties jointly agree to seek reconsideration or a renegotiated settlement.
12 Defendant retains the right to contest whether any aspect of the Action should be
13 maintained as a class or representative action, and to contest the merits of the claims
14 asserted in the Action.

15 **9.6. Appeal Rights.** Only an Objector has the right to appeal a judgment that is
16 in accord with this Agreement. The Class Representative and Class Counsel hereby
17 waives any right to appeal any judgment, ruling, or order in this Action, including any
18 Final Approval Order and any dismissal of the Action with prejudice. This waiver
19 includes all rights to any post-judgment proceeding and appellate proceeding, such as a
20 motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the
21 Judgment therefore will become nonappealable at the time it is entered. The waiver of
22 appeal does not include any waiver of the right to oppose any appeal or post-judgment
23 proceeding. If an appeal is taken from the Judgment, then the time to consummate this
24 Agreement (including making payments under the Agreement) will be suspended until
25 the appeal is finally resolved.

26 **10. Miscellaneous.**

27 **10.1. Execution of this Agreement.**

1 **10.1.1. Parties' Authority.** The signatories hereto represent that
2 they are fully authorized to bind the Parties to all the terms of this Agreement. The
3 Parties agree that Class Members are so numerous that it is impossible or impractical to
4 have each Class Member execute this Agreement. This Agreement may be executed on
5 behalf of Class Members by a Class Representative.

6 **10.1.2. Counterparts.** This Agreement may be executed in
7 counterparts, and all signed and delivered counterparts together may constitute one
8 Agreement binding upon the Parties.

9 **10.1.3. Scanned Signatures.** A Party may sign and deliver this
10 Agreement by signing electronically or by hand on the designated signature block and
11 transmitting that signature page as an attachment to an email to counsel for the other
12 Party. Any such signature shall be deemed an original for purposes of this Agreement and
13 shall be binding upon the Party who transmits the signature page.

14 **10.2. Discharge of Obligations.** Defendant shall fully discharge its obligations to
15 Plaintiff and the Settlement Class through the remittance of the Gross Settlement Amount
16 to the Qualified Settlement Fund, regardless of whether checks representing Individual
17 Settlement Payments are actually negotiated by Settlement Class Members. Once
18 Defendant has complied with its obligation to fund the Gross Settlement Amount, it will
19 be deemed to have satisfied all terms and conditions under this Agreement, shall be
20 entitled to all protections afforded to them under this Agreement, and shall have no
21 further obligations under the terms of the agreement, regardless of what occurs with
22 respect to the further administration of the Settlement, including any requests to be
23 included in the Settlement Class, challenges to the completeness or accuracy of any
24 Individual Settlement Payment, or issues regarding the completeness or accuracy of the
25 class data.

26 **10.3. Construction.**

27 **10.3.1. Materiality of Terms.** Except as otherwise stated herein,
28 each substantive term of this Agreement is a material term that the Parties have relied

1 upon in making this Agreement. If the Court does not approve any substantive term, or if
2 the Court effects a material change to the Agreement—such as increasing any amount
3 that Defendant must pay—then the entire Agreement will be void and unenforceable, and
4 the Parties shall split Administrative Costs. Where this Agreement states that a term is
5 not material, then the Court’s refusal to approve that term leaves all the other terms of the
6 Agreement in effect.

7 **10.3.2. No Construction Against the Author.** Each Party
8 participated in drafting this Agreement, and its terms shall not be construed against any
9 Party by virtue of draftsmanship.

10 **10.3.3. Exhibits Incorporated by Reference.** This Agreement
11 shall include the terms set forth in any attached exhibit. Any exhibit to this Agreement is
12 an integral part of it.

13 **10.3.4. Headings.** The headings within this Agreement appear
14 for convenience of reference only and shall not affect the construction or interpretation of
15 any part of this Agreement.

16 **10.3.5. Invalidity of Any Provision.** Before declaring any
17 provision of this Agreement invalid, the Court shall first attempt to construe the provision
18 valid to the fullest extent possible so as to render all provisions of this Agreement
19 enforceable.

20 **10.3.6. Parties’ Entire Agreement.** With the exception of the
21 separate Settlement Agreement including General Release from the Plaintiff, this
22 Agreement, with its Definitions, Recitals, and Exhibits, constitutes the entire agreement
23 on its subject matter, and supersedes all prior and contemporaneous negotiations and
24 understandings between the Parties.

25 **10.3.7. Waivers and Modifications to Be in Writing.** No
26 waiver, modification, or amendment of this Agreement shall be valid unless it appears in
27 a writing signed by or on behalf of all Parties, and then shall be valid subject to any
28 required Court approval. Any failure to insist upon the strict performance of any

1 provision shall not be deemed a waiver of future performance of that provision or of any
2 other provision of this Agreement.

3 **10.3.8. Governing Law.** All terms of this Agreement shall be
4 governed by and interpreted according to California law.

5 **10.4. The Parties estimate that as of the date of mediation, Class Members**
6 **worked 25,118 workweeks.** If the number of workweeks worked during the Settlement
7 Period is more than 10% over the estimate (i.e., that is, above 27,629 workweeks),
8 Defendant shall have the option to either (i) cut off the Settlement Period as of the date
9 that the workweeks reach 27,629; (ii) increase the Gross Settlement Amount on a
10 proportional basis equal to the percentage increase in the workweeks above the 10% (i.e.,
11 if there is a 12% increase in the number of workweeks during the Settlement Class
12 Period, Defendant has the option to increase the Gross Settlement Amount by 2% to
13 cover the entire Settlement Period); or (iii) void this Agreement.

14 **10.5. Inadmissibility of Settlement Documents.** The Parties agree that this
15 Agreement and all exhibits thereto shall be inadmissible in any proceeding, except a
16 proceeding to approve or enforce this Agreement. This Agreement will operate as a
17 complete defense to—and may be used as the basis for an injunction against—any
18 proceeding attempted in breach of this Agreement.

19 **10.6. No Tax Advice.** Nothing in this Agreement is advice by Class Counsel or
20 Defense Counsel regarding taxes or taxability, and no Party is relying upon Class
21 Counsel or Defense Counsel for such advice. Each Party instead is relying exclusively on
22 the Party's own independent tax counsel in connection with this Agreement.

23 **10.7. No Impact on Employee Benefits.** This Agreement does not affect any
24 right or obligation under any benefits plan. No payment made under this Agreement shall
25 be considered as compensation or hours worked or hours paid for purposes of
26 determining eligibility, vesting, participation, or contributions with respect to any
27 employee benefit plan. For purposes of this Agreement, the term "employee benefit plan"
28 means every "employee benefit plan," as defined in the Employee Retirement and

1 Income Security Act of 1974, 29 U.S.C. section 1002(3). The term also includes any
2 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare,
3 profit sharing, retirement, disability, vacation, severance, hospitalization, insurance,
4 incentive, deferred compensation, or any other similar benefit plan, practice, program, or
5 policy, regardless of whether any such plan is considered an employee benefit plan.

6 **10.8. No Prior Assignments or Undisclosed Liens.** The Class Representative
7 and Class Counsel represent that they have not assigned, transferred, conveyed, or
8 otherwise disposed of any Released Claim or claim to attorneys' fees and costs award to
9 be paid under this Agreement. The Class Representative and Class Counsel further
10 represent and warrant that there are not any liens or claims against any amount that
11 Defendant is to pay under this Agreement. The Class Representative, Settlement Class
12 Member and Class Counsel agree to defend, to indemnify, and to hold Defendant
13 harmless from any liability, losses, claims, damages, costs, or expenses, including
14 reasonable attorneys' fees, resulting from a breach of these representations or from any
15 lien or assignment. Nothing herein is intended to constitute legal advice regarding the
16 taxability of any amount paid pursuant to this Agreement, nor may it be relied upon as
17 such.

18 **10.9. Cooperation of the Parties.** The Parties will comply with the covenants of
19 good faith and fair dealing and otherwise cooperate as follows.

20 **10.9.1. Affirmative Duty to Cooperate.** Each Party, upon the
21 request of another, agrees to perform such acts and to execute and to deliver such
22 documents as are reasonably necessary to carry out this Agreement. In the same spirit, the
23 Parties agree to make all reasonable efforts to avoid unnecessary Administrative Costs.

24 **10.9.2. Language of Settlement Documents.** All documents
25 filed with the Court or sent to Class Members in connection with this Agreement must be
26 approved by all Parties before being filed or sent.
27
28

1 **10.9.3. Refraining from New Proceedings.** The Parties agree to
2 refrain from further litigation with respect to the Action, except any proceeding needed to
3 obtain Preliminary Approval, Final Approval, or Judgment.

4 **10.9.4. No Solicitation of Objections or Opt Outs.** The Parties
5 represent that they have not solicited, encouraged, or assisted—and will not solicit,
6 encourage, or assist—Objections or Requests for Exclusion.

7 **10.9.5. Waiver of Right to Object by Class Representative.**
8 The Class Representative, by signing this Agreement, agrees not to object to any term of
9 this Agreement.

10 **10.10. Confidential Information.** Class Counsel will destroy all confidential
11 documents and information provided by Defendant within 7 calendar days of Defendant's
12 payment of the Gross Settlement Amount to the Qualified Settlement Fund. Class
13 Counsel further agree that no information provided by Defendant shall be used for any
14 purpose other than prosecution of this Action.

15 **10.11. No Media Announcements or Other Undue Publicity.** No Party shall
16 make any public statement to the news, print, electronic, or Internet media concerning
17 this Agreement, and the Parties shall decline to respond to media inquiries concerning
18 this Agreement. Nothing in this Agreement, however, prevents Class Members from
19 discussing or disclosing information about unlawful acts in the workplace, such as
20 harassment or discrimination or any other conduct that they have reason to believe is
21 unlawful, or discussing with any person or persons wages, hours or other terms and
22 conditions of employment, nor from engaging in lawful protected activity with or on
23 behalf of coworkers regarding same. Class Counsel shall not publicize the settlement in
24 their marketing materials, website, or other advertising media. Nothing in this Agreement
25 prevents Class Counsel from placing in their marketing materials, website, or other
26 advertising media a comment that Class Counsel secured payment for their clients in this
27 Action, so long as any such comment does not mention the name of this case, the name of
28 any Party or Class Member, or the identity of Defense Counsel. Should Plaintiff or Class

1 Counsel breach this provision, Plaintiff shall forfeit to Defendant the full amount of her
2 Service Award and Class Counsel shall forfeit the full amount of the Class Counsel
3 Award. Defendant may also enforce this provision through an action for injunctive relief
4 and recover attorney fees in connection therewith. Plaintiff waives any obligation to post
5 a bond in connection with any such action. Notwithstanding the foregoing, Class Counsel
6 can post on his website that the “Lawsuit Settled” and refer questions to the Settlement
7 Administrator.

8 **10.12.Disputes.** If the Parties dispute the interpretation of this Agreement, then
9 they will attempt to resolve the dispute informally. If those efforts fail, they will mediate
10 the dispute. The Parties will split the costs of the mediator, and the Parties will bear their
11 own fees and costs. The Court shall retain jurisdiction over enforcement and
12 implementation of this Agreement, and can require specific performance, although the
13 Court lacks jurisdiction to modify the terms of this Agreement. If either Plaintiff or
14 Defendant institutes legal action to enforce this Agreement, then the prevailing Party will
15 be entitled to recover attorney’s fees and costs incurred in vindicating that Party’s
16 position.

1 **SO AGREED:**

2
3 DATED: January 30, 2024

KERR CORPORATION
By: Heather Turner
Its Vice President
Heather Turner

6
7 DATED: January 31, 2024

SEYFARTH SHAW LLP
By: [Signature]
Attorneys for Defendant Kerr
Corporation

9
10 DATED: 1/25/2024, 2023

PLAINTIFF ISABEL GUILLEN
DocuSigned by:
[Signature]
721A3223791C4A9...

12
13 DATED: January 30, 2024

MOON LAW GROUP, PC
By: [Signature]
Attorneys for Plaintiff Isabel Guillen

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EXHIBIT 1

Guillen v. Kerr Corporation, Case No. 30-2021-01217243-CU-OE-CXC
SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF ORANGE
NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully.

To: All individuals whom Kerr Corporation (“Kerr”) employed as nonexempt employees in California at any time from August 17, 2017 through March 8, 2023 who did not enter arbitration or severance agreements with Defendants; and

All individuals whom Kerr employed as nonexempt employees in California from August 17, 2020 through March 8, 2023 who did not enter severance agreements with Defendants.

The Honorable William Claster of the Superior Court for the State of California, County of Orange, has granted preliminary approval of a proposed settlement (“Settlement”) of this action (“Class and Representative Action”).

THE COURT HAS NOT DETERMINED THAT KERR VIOLATED THE LAW. KERR DENIES THAT IT VIOLATED ANY LAWS OR THAT IT HARMED ITS EMPLOYEES IN ANY WAY. IT IS SETTLING THIS LAWSUIT TO AVOID THE EXPENSE AND BURDEN OF FURTHER LITIGATION.

The purpose of this Notice is to provide a brief description of the claims alleged in the Class and Representative Action, the key terms of the Settlement, and your rights and options with respect to the Settlement. **You have received this notice because Kerr’s records indicate that you are a Class Member and you may be entitled to a settlement payment.**

Unless you choose to opt out of the Settlement by following the procedures described below, you will be deemed a Settlement Class Member and, if the Court grants final approval of the Settlement, you will be mailed a check for your share of the settlement fund. However, all PAGA Employees (as defined below) shall receive a pro rata portion of the PAGA Settlement regardless of whether they opt out of the Settlement. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at **_:00 .m. on _____, 2024** in Department CX101 of the Superior Court for the State of California, County of Orange, located at 700 W Civic Center Dr, Santa Ana, CA 92701. You are not required to attend the Hearing, but you are welcome to do so. The Court may change the Final Approval Hearing date or time without notice.

Summary of the Litigation

Plaintiff, Isabel Guillen, on behalf of herself and on behalf of other individuals whom Kerr employed as nonexempt employees in California, claims that Kerr violated California state and laws as a result of its alleged: (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; (8) unfair business practices; and (9) civil penalties under PAGA.

After the exchange of relevant information and evidence, the Parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On March 8, 2023, the Parties participated in a mediation with Eve Wagner, an experienced and well-respected class action mediator. With Eve Wagner’s guidance, the Parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys approved by the Court to represent the class, Kane Moon, Allen Feghali, and Hyunjin Kim of Moon Law Group, PC (“Class Counsel”), has investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believes that the claims alleged in this lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation justify settlement.

Based on the foregoing, Class Counsel believes the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members and PAGA Employees.

Kerr denies that it violated the law in any way. It has denied, and continues to deny, the factual and legal allegations in the case and believes that it has valid defenses to Plaintiff's claims. By agreeing to settle, Kerr is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class or representative action. Kerr has agreed to settle the case as part of a compromise with Plaintiff.

Summary of the Proposed Settlement Terms

Plaintiff and Kerr have agreed to settle the class claims in exchange for a Class Settlement Amount of \$550,000. This amount is inclusive of: (1) Individual Settlement Payments to all Participating Class Members; (2) any Service Award to the Class Representative (\$7,500); (3) the Class Counsel Award (attorney's fees in an amount up to \$183,333.33 and litigation costs in an amount up to \$20,000.00); (4) the employer's share of payroll taxes on any Individual Settlement Payments constituting wages ; (5) the PAGA Settlement (\$75,000); and (6) reasonable settlement administration expenses up to \$20,000.00. After deducting the settlement administration expenses, the Class Counsel Payment, the Service Award, the PAGA Settlement, and employer payroll taxes, a Net Settlement Amount of approximately \$ [REDACTED] will be allocated to Class Members who do not opt out of the settlement ("Settlement Class Member").

Each Settlement Class Member's settlement payment will be based on workweeks each Settlement Class Member worked as a nonexempt employee for Kerr in California from August 17, 2017 through March 8, 2023. The formula for calculating settlement payments is as follows:

- (a) Kerr will calculate the total number of workweeks that each Class Member worked ("Individual Workweeks") and the total number of workweeks that all Class Members worked ("Total Settlement Class Member Workweeks") from August 17, 2017 to March 8, 2023.
- (c) Each Settlement Class Member's share of the Net Settlement Amount is the number of workweeks attributed to the Settlement Class Member during the Settlement Period, divided by Total Settlement Class Member Workweeks and multiplied by the California Released Claims Amount. Otherwise stated, the formula for a Settlement Class Member is: $(\text{Individual Workweeks} \div \text{Total Settlement Class Workweeks}) * \text{Net Settlement Amount}$.

The Parties also will seek approval for a PAGA Settlement from the Gross Settlement Amount in the amount of \$75,000, 75% of which will go to the Labor & Workforce Development Agency, which enforces the Private Attorney General Action of 2004, and 25% of which will go to PAGA Employees (defined below) on a pro-rata basis. Each individual Kerr employed as nonexempt employees in California from August 17, 2020 through March 8, 2023 (the "PAGA Period") who did not enter severance agreements with Kerr ("PAGA Employee") is entitled to a pro rata share based on the number of workweeks he or she worked during the Settlement Period for PAGA Employees of the 25% portion of the PAGA Settlement distributed to PAGA Employees. This pro rata portion is calculated by (i) the number of each PAGA Employee's credited workweeks during the PAGA Period, divided by (ii) the total number of credited workweeks worked by all PAGA Employees during the PAGA Period.

Each settlement payment will be reduced by any required legal deductions.

180 days after settlement checks are delivered, the associated funds from all uncashed or undeliverable PAGA Settlement Checks and Settlement Class checks will be directed to the California Controller in the name of the individual who did not cash those checks. If, after all payments as directed by the Parties have issued, there remains any unpaid residue of funds,

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

uncashed checks shall be voided and the principal for those uncashed checks shall be paid to the California Controller in the Class Member's name. .

According to Kerr's records, you worked during the Settlement Period as a nonexempt employee in California for a total of [REDACTED] Individual Workweeks. According to Kerr's records, you worked during the PAGA Period as a nonexempt employee in California for a total of [REDACTED] Individual Workweeks.

Accordingly, if the Settlement is finally approved, your estimated payment would be approximately \$[REDACTED]. If you believe the information provided above is incorrect, please promptly contact the Settlement Administrator at [REDACTED]. If you dispute the information stated above, Kerr's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to Settlement Class Members and the appropriate taxing authorities reflecting the payments they receive under the Settlement.

Why is This Being Referred to as a "Class and Representative Action"

The Settlement that you are receiving notice about involves a class action and a representative action. The following claims involved in the case and Settlement you are being notified about include California law claims for: (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. Further, additional claims involving the Private Attorneys General Act of 2004 for penalties is what is referred to as a "representative action."

The key distinction between a "class action" and a "representative action" is their requirements for how you participate in or how or if you can exclude yourself from the settlement.

If you wish to participate in the class action settlement, which is explained in this Notice and the Settlement Agreement, you do not have to do anything. You will receive money under the class action settlement by doing nothing. If you want to opt out of, or request to be excluded from and not bound by, the class action settlement, then you must submit your intention to opt out of the settlement in the manner and timeframe described in this Notice. If you opt out of the settlement, you still will receive a PAGA payment and will be bound by the release of PAGA claims that is part of the settlement.

If the Court approves the PAGA Settlement you will receive a PAGA Settlement payment and do not have the option to exclude yourself and you will be bound by the Released PAGA claims.

In sum, for the class action settlement, you do not have to do anything to get the money and be bound by the release of class action claims stated in this Notice and Settlement Agreement but you have the option to opt out. For the PAGA Settlement, you do not need to do anything to receive your payment and you will be bound by the PAGA release even if you opt out of the class action settlement.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

If want to receive your payment from the Settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself from participating in the Class Settlement by sending to the Settlement Administrator an “Exclusion Form” (enclosed herein) or by submitting a written Request for Exclusion to the Settlement Administrator expressly and clearly indicating that you desire to be excluded from the settlement. The written request for exclusion must include your (i) full name, current mailing address, current telephone number, date, and signature; (ii) the last four digits of your social security number; and (iii) an express statement that you wish to be excluded from the Guillen v. Kerr Corp Class Settlement.

Send the Exclusion Form/ Request for Exclusion directly to:

Settlement Administrator

c/o _____

The written request to be excluded must be postmarked or faxed not later than _____, 2024. If you submit a request for exclusion that is not postmarked or faxed by _____, 2024, your request for exclusion will be rejected, and you will be included in the settlement class.

If you do not opt out of the Settlement but then later do not cash your settlement checks, you will be bound by the class action settlement. If you opt out of the settlement, you still will receive a PAGA payment and will be bound by the release of PAGA claims that is part of the settlement.

Option 3 – Object to the Settlement

If you decide to object to the Settlement because you find any portion of it unfair or unreasonable, including requested attorneys’ fees or Service Award, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name and current mailing address, (2) the last four digits of your social security number, (3) the specific reason(s) for the Objection, and (4) all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the Court to consider. The objection must be mailed to the administrator at [administrator’s address].

All objections must be postmarked or faxed no later than _____ 2024. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for _____ at _____ a.m./p.m. in Department CX101 of the Superior Court for the State of California, County of Orange, located at 751 W Santa Ana Blvd, Santa Ana, CA 92701, and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing. The Court may change the hearing date or time without notice.

If you choose **Option 1 and do nothing**, and if the Court grants final approval of the Settlement, then you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims (“Released Claims):

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Any and all claim asserted in the Action, or that could have been asserted based on the facts alleged in the Action, irrespective of the liability theory, including but not limited to any claims under state law, claims for unpaid wages, minimum wage, overtime, off-the-clock work, claims for missed meal or rest breaks, claims for meal or rest break penalties, claims for unreimbursed employee business expenses, claims for failure to provide accurate itemized wage statements, claims for liquidated damages, interest, penalties, attorneys' fees, wage-statement penalties, and "waiting time" penalties, claims for withholding from wages, and claims under the applicable Wage Order and Labor Code sections 201-204, 210, 216, 218.5, 218.6, 226, 226(a), 226.3, 226.7, 510, 512, 512.5 558, 1174, 1174(d), 1174.5, 1194, 1194(a), 1194.2, 1197, 1198, 2802, 2802(b), and 2802(c), as well as claims under the California Business & Professions Code §§ 17200 et seq. ("Released Claims");

Further, upon approval of the settlement, you will be bound by the PAGA release, which includes a release of the following (the "Released PAGA Claims"):

All claims for penalties and any other available relief under PAGA that were or could have been asserted in this Action based on or arising out of the facts alleged in this Action irrespective of the liability theory, including, but not limited to claims for unpaid wages, minimum wage, overtime, off-the-clock work, claims for missed meal or rest breaks, claims for meal or rest break penalties, claims for unreimbursed employee business expenses, claims for failure to provide accurate itemized wage statements, claims for liquidated damages, interest, penalties, attorneys' fees, wage-statement penalties, and "waiting time" penalties, claims for withholding from wages, and claims under the applicable Wage Order and Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2699, and 2802.

If you choose **Option 2 and opt out**, then you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Claims, (2) be barred from filing an objection to the settlement, (3) not receive a payment from the class settlement; and (4) be deemed to have released your Released PAGA claims and receive a PAGA Payment.

If you choose **Option 3 and object**, then you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims and the Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the Settlement Agreement, and other papers filed in the case. Such documents can be found at the Office of the Clerk, Orange County Superior Court, located at 751 W Santa Ana Blvd, Santa Ana, CA 92701, or by inputting the case number at the Court's website <https://www.occourts.org/online-services/case-access/> under the "Civil Case and Document Access" link. A copy of the Settlement Agreement may be obtained from the Settlement Administrator free of charge. All inquiries by Class Members regarding this Class Notice or the settlement should be directed to the Settlement Administrator or Class Counsel.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Kane Moon, Allen Feghali, and
Hyunjin Kim of Moon Law Group
PC, 1055 W. Seventh Street, Suite
1880, Los Angeles, California
90017.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, KERR OR KERR'S ATTORNEYS
WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-***-***-****

EXHIBIT 2

**[COMPLETE THIS FORM ONLY IF YOU
CHOOSE TO
DISPUTE THE WORK WEEKS IN THE CLASS NOTICE]**

“WORK WEEK DISPUTE FORM”

Guillen v. Kerr Corporation
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2021-01217243-CU-OE-CXC

INSTRUCTIONS: TO DISPUTE THE NUMBER OF WORK WEEKS CALCULATED FOR YOU AS PART OF THE SETTLEMENT, YOU MUST COMPLETE, SIGN AND MAIL THIS FORM AND ALL SUPPORTING EVIDENCE BY FIRST CLASS U.S. MAIL OR EQUIVALENT, POSTAGE PAID, POSTMARKED ON OR BEFORE **[+60 DAYS FROM MAILING]**, ADDRESSED TO THE SETTLEMENT ADMINISTRATOR AS FOLLOWS:

INSERT ADMINISTRATOR INFO

Please fill in all of the following information (type or print):

NAME (First, Middle, Last): _____

STREET ADDRESS: _____

CITY, STATE, ZIP CODE: _____

TELEPHONE NUMBERS: Home: _____ Work: _____

**IT IS STRONGLY RECOMMENDED THAT YOU RETAIN PROOF OF MAILING
THIS FORM AND ALL SUPPORTING EVIDENCE POSTMARKED ON OR BEFORE **[DATE]**.**

I [insert your name] _____ wish to be dispute the number of Work Weeks calculated for me as part of the settlement in the case of *Guillen v. Kerr Corporation, Orange County Superior Court, Case No. 30-2021-01217243-CU-OE-CXC*. Based on the evidence submitted with this form, the correct number of Work Weeks is _____.

I arrived at the above number of Work Weeks by relying on the following information and/or documents (please attach any records which support your contention that you worked more work weeks than those included in the Notice):

Please be advised the Court has approved the following method for resolving workweek disputes:

If you submit this form disputing the accuracy of Kerr Corporation’s records used to calculate Covered Workweeks, and the Parties’ counsel cannot resolve the dispute informally, the matter will be referred to the Settlement Administrator. The Settlement Administrator will review Kerr Corporation’s records and any information or documents submitted by You. The parties should file with the Court all disputes submitted by class members, the evidence submitted, and the resolution of those disputes. The Court shall have the right to review

any decision made by the settlement administrator regarding a claim dispute. You must submit information or documents supporting your position to the Settlement Administrator prior to <<the expiration of the response deadline>>. Information or documents submitted after the expiration of the Response Deadline will not be considered by the Settlement Administrator, unless otherwise agreed to by the Parties.

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

Signed: _____

Date: _____

Print Name: _____

Last four digits of Social Security Number _____

EXHIBIT 3

**[COMPLETE THIS FORM ONLY IF YOU
CHOOSE TO
NOT PARTICIPATE IN THIS SETTLEMENT AND
CHOOSE NOT TO RECEIVE A SETTLEMENT SHARE]**

“EXCLUSION FORM”

Guillen v. Kerr Corporation
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2021-01217243-CU-OE-CXC

INSTRUCTIONS: TO OPT-OUT OF THE SETTLEMENT, YOU MUST COMPLETE, SIGN AND MAIL THIS FORM BY FIRST CLASS U.S. MAIL OR EQUIVALENT, POSTAGE PAID, POSTMARKED ON OR BEFORE **[+60 DAYS FROM MAILING]**, ADDRESSED TO THE SETTLEMENT ADMINISTRATOR AS FOLLOWS:

INSERT ADMINISTRATOR INFO

Please fill in all of the following information (type or print):

NAME (First, Middle, Last): _____
STREET ADDRESS: _____
CITY, STATE, ZIP CODE: _____
TELEPHONE NUMBERS: Home: _____ Work: _____

**IT IS STRONGLY RECOMMENDED THAT YOU RETAIN PROOF OF MAILING
THIS FORM POSTMARKED ON OR BEFORE **[DATE]**.**

I [insert your name] _____ wish to be excluded from the Settlement Class in the case of *Guillen v. Kerr Corporation, Orange County Superior Court, Case No. 30-2021-01217243-CU-OE-CXC*.

I understand I will not receive money from the proposed class action settlement. However, if I am a PAGA Employee, I will automatically receive a PAGA Settlement Payment.

I further verify that the following is true: My name, address and other contact information are accurately set forth above. I received and had the opportunity to read the Class Notice and Settlement Information Form that were sent to me along with this Exclusion Form. I understand that by signing this side of the form, I voluntarily choose to exclude myself from the proposed settlement of this class action. **I understand that by excluding myself, I may not accept any money allocated for me in the proposed settlement and may not object to the settlement.** On the other hand, I also understand that if I wish to assert any claims related to those set forth in this lawsuit in my individual capacity, I shall have to do so separately. I understand that any such claims are subject to strict time limits, known as statutes of limitations, which restrict the time within which I may file any such action. I understand that I should consult with an attorney at my own expense if I wish to obtain advice regarding my rights with respect to this settlement or my choice to opt out of the settlement. Kerr Corporation has not encouraged me to opt out, and I choose to opt out of my own free will.

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

Signed: _____ Date: _____

Print Name: _____ Last four digits of Social Security Number _____