

Kane Moon (SBN 249834)
kane.moon@moonyanglaw.com
Lilit Ter-Astvatsatryan (SBN 320389)
lilit@moonyanglaw.com
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Arthur Laws

CALL & JENSEN
A Professional Corporation
Jacqueline Beaumont, Bar No. 253776
Anurita S. Varma, Bar No. 279486
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
Tel: (949) 717-3000
jbeaumont@calljensen.com
avarma@calljensen.com

Attorneys for Defendant Lux Bus America Co.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ARTHUR LAWS, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

LUX BUS AMERICA CO., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 30-2021-01222521-CU-OE-CXC

Assigned for All Purposes:
Hon. Peter Wilson, Dept. CX102

JOINT STIPULATION FOR SETTLEMENT

Complaint Filed: September 20, 2021
Trial Date: None Set

1
2
3
4
5 This Joint Stipulation Re: Class Settlement is made by and between the Named Plaintiff,
6 ARTHUR LAWS (“Plaintiff”), on his own behalf and on behalf of all members of the Settlement Class,
7 as defined below, and Defendant LUX BUS AMERICA CO. (“Defendant,” and together with Plaintiff,
8 the “Parties”), in the lawsuit entitled *Arthur Laws v. Lux Bus America Co.*, filed in Orange County
9 Superior Court, Case No. 30-2021-01222521-CU-OE-CXC. This Joint Stipulation Re: Class Settlement
10 resolves all claims that were asserted or could have been asserted against Defendant pertaining to the
11 claims in the Litigation.

12 **I. DEFINITIONS**

13 **A. Administrative Costs.** All administrative costs of settlement, including cost of notice
14 to the Settlement Class, claims administration, and any fees and costs incurred or charged by the
15 Settlement Administrator in connection with the execution of its duties under this Stipulation of
16 Settlement.

17 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
18 synonymously herein to mean this Stipulation of Settlement.

19 **C. Class Counsel.** The term “Class Counsel” as used herein means: MOON & YANG,
20 APC and all the lawyers of the firm acting on behalf of Named Plaintiff and the Settlement Class. The
21 term Class Counsel shall be used synonymously with the term Plaintiff’s Counsel.

22 **D. Court.** The term “Court” as used herein means the Superior Court of the State of
23 California for the County of Orange.

24 **E. Final.** The term “Final” means: (1) the date of final affirmation of the Final Approval
25 Order from any appeal, the expiration of the time for, or the denial of, a petition to review the Final
26 Approval Order, or if review is granted, the date of final affirmation of the Final Approval Order
27 following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final
28 Approval Order or the final dismissal of any proceeding to review the Final Approval Order, provided
that the Final Approval Order is affirmed and/or not reversed in any part; or (3) if no appeal is filed, the

1 expiration date of the time for the filing or noticing of any appeal from the Court's Final Approval
2 Order, as determined under Rule 8.104(a)(3) of the California Rules of Court.
3

4 **F. Date of Final Approval.** The terms "Date of Final Approval" or "Final Approval.
5 Order" as used herein mean date of issuance of the final formal judgment entered by the Court at the
6 Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.
7

8 **G. Preliminary Approval.** The term "Preliminary Approval" or "Preliminary Approval
9 Date" means the date that the Court grants Preliminary Approval of this Agreement.

10 **H. Defendant.** The term "Defendant" as used herein means LUX BUS AMERICA CO.

11 **I. Employer Taxes.** Employer-funded taxes and contributions imposed on the wage
12 portions of the Settlement Payment under the Federal Insurance Contributions Act, the Federal
13 Unemployment Tax Act, and any similar state taxes and contributions required of employers, such as
14 for unemployment insurance.

15 **J. Litigation.** The term "Litigation" as used herein means the action entitled filed in
16 Orange County Superior Court, Case No. 30-2021-01222521-CU-OE-CXC.

17 **K. Named Plaintiff.** The term "Named Plaintiff" as used herein means ARTHUR LAWS.

18 **L. Net Settlement Fund.** The term "Net Settlement Amount" or "Net Settlement Fund" as
19 used herein means the Maximum Settlement Amount minus any award of attorneys' fees and Litigation
20 costs, Administrative Costs, enhancement to the Named Plaintiff, and penalties recoverable pursuant to
21 California's Private Attorneys General Act ("PAGA") (the "PAGA Settlement"), and as provided in
22 Sections VIII, XIII, XIV, XV, and XVI, respectively.

23 **M. Net Settlement Payments.** The term "Net Settlement Payment(s)" shall include
24 payments made to the Settlement Class as part of the Settlement, including wages, penalties and interest.

25 **N. PAGA Employee.** For settlement purposes only, the Parties agree to the definition of a
26 PAGA Employee as: All persons who worked for Defendant in California as an hourly-paid, non-
27 exempt employee during the PAGA Settlement Period of September 18, 2020 through the Negotiated
28 Class End Date (together, collectively referred to as the "PAGA Employees").

O. PAGA Settlement Period. The "PAGA Settlement Period" is September 18, 2020

1 through the Negotiated Class End Date. Defendant's best estimate for the number of workweeks at issue
2 for the PAGA Employees prior to September 6, 2022 is 48,357 workweeks.

3 **P. PAGA Settlement.** In order to settle claims alleged under the Private Attorneys'
4 General Act, California *Labor Code* section 2698 et seq., the Parties agree to allocate \$40,000.00 from
5 the Maximum Settlement Amount as penalties authorized by the California Labor Code Private
6 Attorneys General Act of 2004 (PAGA Settlement). Seventy-five percent (75%) of the PAGA
7 Settlement (totaling \$30,000.00) will be paid to the Labor and Workforce Development Agency and
8 25% of the PAGA Settlement (totaling \$10,000.00) will be distributed to participating PAGA
9 Employees.

10 **Q. Settlement.** The term "Settlement" as used herein means this Agreement to resolve the
11 Litigation.

12 **R. Settlement Administrator.** The term "Settlement Administrator" as used herein means
13 a mutual agreed-upon settlement administrator, which will be responsible for distribution and payment
14 of all payments from Defendant in regards to the Maximum Settlement Amount, including payment to
15 the Class Members, PAGA Employees, Named Plaintiff, Class Counsel, and the Labor and Workforce
16 Developmental Agency, and shall be responsible for all appropriate withholding disbursement of taxes,
17 and compliance with all reporting obligations.

18 **S. Settlement Agreement.** The terms "Settlement Agreement" or "Agreement" are used
19 synonymously herein to mean this Stipulation of Settlement.

20 **T. Maximum Settlement Amount.** The term "Maximum Settlement Amount" as used
21 herein means the sum of Seven Hundred and Thirty Two Thousand Five Hundred Dollars and Zero
22 Cents (\$732,500.00), which shall be paid by Defendant, and which sum includes all attorneys' fees and
23 costs pursuant to Section XIII, administrative costs pursuant to Section VIII, enhancement award to
24 Plaintiff as a class representative pursuant to Section XIV., payment to the California Labor and
25 Workforce Developmental Agency, and a Net Class Settlement Amount ("Net Class Settlement
26 Amount" defined as the balance after deduction of attorneys' fees and costs, class administrator fees,
27 the PAGA Settlement Payment, enhancement award to Plaintiff, payment to the California Labor and
28 Workforce Developmental Agency, , and will be proportionally based on compensable workweeks

1 within the Settlement Period). Subject to Section XI(C) below, the Maximum Settlement Amount is
2 subject to increase, at Defendant's discretion and option, in the event the final number of workweeks in
3 the Settlement Period is more than 15% higher than the initially agreed upon estimate of 97,351
4 workweeks.

5 **U. Settlement Class.** For settlement purposes only, the Parties agree to the certification of
6 a class pursuant to California *Code of Civil Procedure* § 382 defined as:

7 All persons who worked for Defendant in California as an hourly-paid, non-exempt
8 employee during the Settlement Period (the "Settlement Period" starts on September
9 20, 2017 and shall end on the "Negotiated Class End Date") applicable to the operative
10 complaints (together, collectively referred to as the "Class Members"), excluding
11 persons and workweeks covered by the settlement and release in the matter of
12 *Benjamin v. Lux Bus America Co.*, Superior Court of California for the County of
13 Orange, Case No. 30-2016-00870583.

14 **V. Settlement Period.** The term "Settlement Period" as used herein means the period from
15 September 20, 2017 through the Negotiated Class End Date.

16 **W. Negotiated Class End Date.** The term "Negotiated Class End Date" shall be Defendant's
17 selection made at or near the time of Preliminary Approval, of its option of several negotiated choices
18 based on Defendant's best estimate for the number of workweeks at issue for the Class Members prior
19 to September 6, 2022, which is 97,351 workweeks. If the amount of workweeks within the Settlement
20 Period is determined to be up to 15% higher than Defendant's initial estimate (i.e., if it is 111,954 or
21 fewer workweeks) at the time of Preliminary Approval of the Class Settlement, the Negotiated End Date
22 for the Settlement Period shall be the date of Preliminary Approval. If the amount of workweeks within
23 the Settlement Period is determined to be more than 15% higher than Defendant's initial estimate (i.e.,
24 if it is 111,954 or more workweeks) at the time of Preliminary Approval of the Class Settlement, then at
25 Defendant's option, either (1) the Negotiated End Date for the Settlement Period shall be the date of
26 Preliminary Approval and the Maximum Settlement Amount shall be increased by the average gross
27 payout to the Class Members based on the 111,954 workweeks (for example, if there are 10% more
28 workweeks than 111,954 workweeks, then Defendant will increase the Maximum Settlement Amount

1 by 10%); or (2) the Negotiated End Date for the Settlement Period shall be the date at which the
2 Settlement Period encompasses 111,954 workweeks.

3 **II. BACKGROUND**

4 **A.** In the Litigation, the Named Plaintiff alleges, inter alia, on behalf of himself and all
5 others similarly situated, that Defendant violated California state wage and hour laws, the California
6 Business and Professions Code Section 17200 et seq., and PAGA, as a result of Defendant's California
7 wage and hour policies and practices. Specifically, Plaintiff alleges that Defendant failed to pay its
8 employees at or above the applicable minimum wage rates, failed to provide overtime compensation,
9 failed to provide meal breaks, failed to authorize and permit legally compliant rest breaks, and failed to
10 indemnify necessary business expenses. Named Plaintiff further alleges that the aforementioned resulted
11 in the employees receiving inaccurate wage statements, and the underpayment of wages to employees
12 upon termination and/or resignation. Finally, Named Plaintiff made claims for unfair business practices
13 and penalties under California's Private Attorney General Act ("PAGA") arising out of the alleged wage
14 and hour policies and practices.

15 Class Counsel conducted informal discovery prior to mediation before experienced wage-and-
16 hour mediator Steve Rottman, Esq., concerning the claims and defenses set forth in the Litigation, such
17 as a sample of class member timekeeping and payroll records; Defendant's policies and procedures
18 concerning the payment of wages, the provision of meal and rest breaks, issuance of wage statements,
19 and providing all wages at separation; as well as information regarding the total workweek and pay
20 period count; and Named Plaintiff's personnel file.

21 **B.** Named Plaintiff and Class Counsel have engaged in good faith, arms-length negotiations
22 with Defendant concerning possible settlement of the claims asserted in the Litigation. The Parties
23 participated in a full day of mediation before Steve Rottman, Esq., a well-known employment law
24 mediator and neutral third party that resulted in a tentative settlement of the Litigation, subject to the
25 approval of the Court, and finalization of a formal Stipulation of Settlement. The Parties have engaged
26 in extensive negotiations about the terms and conditions of the Settlement at the mediation and
27 subsequent thereto. The Parties have now formalized the Settlement Agreement for submission to the
28 Court for preliminary and Final Approval.

1 C. Class Counsel has conducted an investigation of the law and facts relating to the claims
2 asserted in the Litigation and has concluded, taking into account the sharply contested issues involved,
3 the defenses asserted by Defendant, the expense and time necessary to pursue the Litigation through
4 trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse
5 outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the
6 Named Plaintiff and the members of the Settlement Class pursuant to this Agreement, that a settlement
7 with Defendant on the terms and conditions set forth herein is fair, reasonable, adequate, and in the best
8 interests of the Settlement Class. Named Plaintiff, on his own behalf and on behalf of the Settlement
9 Class, has agreed to settle the Litigation with Defendant on the terms set forth herein.

10 D. Defendant has concluded that for reasons including the substantial expense of defending
11 against the Litigation, the length of time necessary to resolve the issues presented herein, the
12 inconvenience involved, and the concomitant disruption to its business operations, it is in Defendant's
13 best interests to accept the terms of this Agreement. Defendant denies each of the allegations and claims
14 asserted against them in the Litigation, and denies that this case could be certified as a class action or
15 proceed on a representative bases, or that a trial would result in any damages. However, without
16 admitting to any liability, Defendant nevertheless desires to settle the Litigation for the purpose of
17 avoiding the burden, expense and uncertainty of continuing litigation and for the purpose of putting to
18 rest the controversies engendered by the Litigation.

19 E. This Agreement is intended to and does effectuate the full, final and complete settlement
20 of all allegations and claims that were asserted, or could have been asserted, in the Litigation by Named
21 Plaintiff and members of the Settlement Class.

22 **III. JURISDICTION**

23 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
24 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
25 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted Final
26 Approval of the Settlement and after the Court has ordered the entry of Judgment, pursuant to California
27 *Code of Civil Procedure* Section 664.6, the Court shall retain jurisdiction of this action solely for the
28

1 purpose of interpreting, implementing, and enforcing this Settlement consistent with the terms set forth
2 herein.

3 **IV. STIPULATION OF CLASS CERTIFICATION**

4 The Parties stipulate to the certification of this Settlement Class for purposes of Settlement only.
5 This Stipulation is contingent upon the Preliminary and Final Approval and certification of the
6 Settlement Class only for purposes of Settlement. Should the Settlement not become final, for whatever
7 reason, the fact that the Parties were willing to stipulate provisionally to class certification as part of the
8 Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether
9 a class should be certified in a non-settlement context in the Litigation. Defendant expressly reserves
10 the right to oppose class certification and/or proactively move to deny certification should this
11 Settlement be modified or reversed on appeal or otherwise not become final. If the Court does not grant
12 either preliminary or final approval of the settlement, the Parties stipulate that class certification will be
13 revoked, but without prejudice to other class certification proceedings. However, if the Court does not
14 grant either preliminary or final approval of the settlement, the Parties agree to work together and engage
15 in their best efforts to attempt to get a settlement approved with regard to or in the spirit of effectuating
16 the Parties' agreement reached at mediation, including but not limited to making revisions to this Joint
17 Stipulation or filing additional papers the Court may request or require in order for the Court to grant
18 approval of the Parties' agreement with regard to the settlement of this Litigation.

19 **V. MOTION FOR PRELIMINARY APPROVAL**

20 Prior to filing a motion before the Court for an order preliminarily approving the Settlement,
21 Named Plaintiff shall amend the PAGA notice letter that Plaintiff's Counsel sent to the Labor and
22 Workforce Development Agency and employer ("PAGA notice letter") on September 18, 2021 relating
23 to the claims in this action, to add claims for PAGA penalties under Labor Code 1194.2 and 204(b).

24 Named Plaintiff will bring a motion before the Court for an order preliminarily approving the
25 Settlement including the Notice of Class Action and Proposed Settlement, and Workweek Dispute Form,
26 which are attached hereto as **Exhibits "A" and "B,"** respectively, and including certification of the
27 Settlement Class for settlement purposes only.

28 The date that the Court grants Preliminary Approval of this Agreement will be the "Preliminary

1 Approval Date.” Class Counsel will prepare the Motion for Preliminary Approval and will provide
2 Defendant’s counsel the opportunity to review it and provide input before it is filed. On the same date
3 on which it is filed with the Court, Class Counsel shall concurrently submit the Motion for Preliminary
4 Approval to the LWDA in compliance with Labor Code § 2698, *et seq.*, PAGA.

5 **VI. STATEMENT OF NO ADMISSION**

6 **A.** Defendant denies liability to Named Plaintiff and to the Settlement Class upon any claim
7 or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission
8 by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against
9 them in the Litigation.

10 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
11 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
12 during the course of the negotiations leading to this Agreement or the Settlement, is intended by the
13 Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in
14 any way in this case or any other judicial, arbitral, administrative, investigative or other forum or
15 proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation,
16 rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not
17 to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial,
18 arbitral, administrative, investigative, or other forum or proceeding, as purported evidence of any
19 violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any
20 obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this
21 Agreement may be used and filed in any proceeding before the Court that has as its purpose the
22 interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the
23 Court entered in connection with implementation of the Settlement.

24 **C.** None of the documents produced or created by Named Plaintiff or the Settlement Class
25 in connection with the claims procedures or claims settlement procedures constitute, and they are not
26 intended to constitute, an admission by Defendant of any violation of any federal, state, or local law,
27 statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

28 **D.** The Parties agree that class certification pursuant to California *Code of Civil Procedure*

1 Section 382 under the terms of this Agreement is for settlement purposes only. Nothing in this
2 Agreement will be construed as an admission or acknowledgement of any kind that any class should be
3 certified or given collective treatment in the Litigation or in any other action or proceeding. Further,
4 neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any
5 court or other tribunal regarding the propriety of class certification or collective treatment. In the event
6 that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails
7 to be enforceable, Named Plaintiff will not be deemed to have waived, limited, or affected in any way
8 any claims, rights, or remedies in the Litigation, and Defendant will not be deemed to have waived,
9 limited, or affected in any way any of their objections or defenses in the Litigation.

10 **VII. WAIVER, RELEASE AND CONFIDENTIALITY**

11 **A. Release as to All Settlement Class Members.**

12 Upon the date the Court's Final Approval Order becomes "Final" (as that term is defined in
13 Section I(E) above), and all payments are made by Defendant pursuant to this Agreement, Named
14 Plaintiff and all members of the Settlement Class, except those that make a valid and timely request to
15 be excluded from the Settlement Class and Settlement, waive, release, discharge, and promise never to
16 assert in any forum any and all wage-related claims that were alleged in the Litigation and/or letters sent
17 to the Labor and Workforce Development Agency or which could have been alleged in the Litigation
18 and/or letters sent to the Labor and Workforce Development Agency, and claims which were not alleged
19 in the Litigation and/or letters sent to the Labor and Workforce Development Agency, based on the facts
20 asserted in the Litigation and/or letters sent to the Labor and Workforce Development Agency arising
21 during the Settlement Period against Defendant, and its divisions, affiliates, predecessors, successors,
22 shareholders, officers, directors, employees, agents, trustees, representatives, administrators,
23 fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries, joint employers, insurers, and
24 related corporations, including the following claims: state wage and hour claims for any and all
25 violations of California's Labor Code and Unfair Competition Law based on Defendant's alleged failure
26 to pay wages for all hours worked (including minimum wages, straight time wages, and overtime
27 wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely
28 pay all wages due at each pay period and at the time of termination, failure to furnish accurate and

1 itemized wage statements, failure to maintain accurate records, failure to indemnify necessary business
2 expenses, violation of the California Business and Professions Code Section 17200, penalties under
3 Labor Code section 558, civil penalties under California's Private Attorneys General Act of 2004 based
4 on the alleged Labor Code and Wage Order violations, and all damages, interest, penalties, attorneys'
5 fees, costs, and other amounts recoverable under said causes of action and related PAGA administrative
6 notice letters under California law, any future amendments to the PAGA administrative notice letters,
7 to the extent permissible, including but not limited to under any provisions of the California Labor Code
8 and the applicable Wage Orders.

9 **B. General Release by Named Plaintiff Only.**

10 In addition to the release made in Section VII(A), Named Plaintiff makes the additional
11 following general release of all claims, known or unknown. Named Plaintiff releases Defendant, and
12 each of its respective subsidiaries, affiliates, predecessors or successors in interest, officers, directors,
13 shareholders, employees, attorneys, agents, assigns, insurers, and re-insurers of any of them, from all
14 claims, demands, rights, liabilities and causes of action of every nature and description whatsoever,
15 known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation
16 of any state, local, or federal statute, rule or regulation, or common law or law of equity, arising out of,
17 relating to, or in connection with Named Plaintiff's employment with Defendant or application for or
18 termination thereof, as well as any and all acts or omissions by or on the part of Defendant. (The release
19 set forth in this Paragraph B shall be referred to hereinafter as the "General Release.")

20 With respect to the General Release, Named Plaintiff stipulates and agrees that, upon the Date
21 of Final Approval, Named Plaintiff shall be deemed to have expressly waived and relinquished, to the
22 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil
23 Code, or any other similar provision under federal or state law, which provides:

24 **"SECTION 1542. [CERTAIN CLAIMS NOT AFFECTED BY**
25 **GENERAL RELEASE.] A GENERAL RELEASE DOES NOT**
26 **EXTEND TO CLAIMS THAT THE CREDITOR OR**
27 **RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
28 **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

1 **HER SETTLEMENT WITH THE DEBTOR OR RELEASED**
2 **PARTY.”**

3 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other than
4 or different from the facts now believed to be true, the release of claims contained herein shall be
5 effective as to all unknown claims.

6 **B. PAGA Release.**

7 Upon the date the Court’s Final Approval Order becomes “Final” (as that term is defined in
8 Section I(E) above) and all payments are made by Defendant pursuant to this Agreement, Named
9 Plaintiff and all PAGA Employees waive, release, discharge, and promise never to assert in any forum
10 any and all civil penalties under the Private Attorneys General Act (“PAGA”), California Labor Code
11 section 2698 et seq., and demands for related interest and attorneys’ fees on the penalties, that were
12 asserted in the Litigation and/or letters sent to the Labor and Workforce Development Agency by
13 Plaintiff during the PAGA Settlement Period, or which could have been alleged in the Litigation and/or
14 letters sent to the Labor and Workforce Development Agency based on the facts asserted in the
15 Litigation and/or letters sent to the Labor and Workforce Development Agency arising during the
16 Settlement Period against Defendant Lux Bus America Co., and its divisions, affiliates, predecessors,
17 successors, shareholders, officers, directors, employees, agents, trustees, representatives,
18 administrators, fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries, joint
19 employers, insurers, attorneys, and related corporations, individually and collectively.

20 **VIII. SETTLEMENT ADMINISTRATOR**

21 Named Plaintiff and Defendant, through their respective counsel, have selected Phoenix Class
22 Action administration Solutions as the Settlement Administrator to administer the Settlement, which
23 includes, but is not limited to, distribution and payment of all payments from Defendant in regards to
24 the Maximum Settlement Amount, including payment to the Class Members, PAGA Employees,
25 Named Plaintiff, Class Counsel, and the Labor and Workforce Developmental Agency, and shall be
26 responsible for all appropriate withholding disbursement of taxes, and compliance with all reporting
27 obligations. Defendant will not oppose an application of up to \$20,000.00 of the Maximum Settlement
28 Amount to the Settlement Administrator for claims administration costs and fees. Fees of the Settlement

1 Administrator shall be paid out of the Maximum Settlement Amount. If the actual Settlement
2 Administrator fees are less than the Parties' estimation, the difference between the actual and estimated
3 Settlement Administrator fees will revert to the participating Settlement Class Members. The Parties
4 agree that this Agreement may be provided to the Settlement Administrator to effectuate its
5 implementation of the settlement procedures herein.

6 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

7 **A. Notice.**

8 Named Plaintiff and Defendant, through their respective attorneys, have jointly prepared a
9 Notice of Class Action and Proposed Settlement (the "Notice") and a Workweek Dispute Form, which
10 in substance will be provided to the members of the Settlement Class as follows:

11 As soon as practicable following Preliminary Approval of the Settlement, but no later than thirty
12 (30) calendar days after the Court's Preliminary Approval Order, Defendant will provide to the
13 Settlement Administrator the following information about each Settlement Class Member ("Class
14 List"): (1) name; (2) last known home address; (3) number of workweeks as a class member during the
15 Settlement Period or the dates of employment for each Settlement Class Member; and (4) Social
16 Security number. Defendant further agrees to consult with the Settlement Administrator prior to the
17 production date to ensure that the format will be acceptable to the Settlement Administrator. Plaintiff's
18 Counsel shall also receive a redacted Class List that shall only disclose an identification number
19 attributed to each class member and the number of workweeks each class member worked during the
20 Settlement Period.

21 The Settlement Administrator shall run all the addresses provided through the United States
22 Postal Service NCOA database (which provides updated addresses for any individual who has moved
23 in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain
24 current address information, and shall mail the Notice and Workweek Dispute Form to the members of
25 the Settlement Class via first-class regular U.S. Mail using the most current mailing address information
26 available, within ten (10) calendar days of the receipt of the Class List from Defendant. The Notice
27 shall provide the members of the Settlement Class sixty (60) days' notice of all applicable dates and
28 deadlines.

1 The Notice will also include information regarding the nature of the Litigation; a summary of
2 the terms of the Settlement; the definition of the Settlement Class; a statement that the Court has
3 preliminarily approved the Settlement; the nature and scope of the claims being released; the procedure
4 and time period for objecting to the Settlement, the date and location of the Final Approval Hearing;
5 information regarding the opt-out procedure; Defendant's calculation of the number of Eligible
6 Workweeks that each Settlement Class Member has worked as an employee in California at any time
7 during the Settlement Period, and the estimated potential recovery for the proposed Settlement Class
8 Member. The Notice shall enclose the Workweek Dispute Form for Settlement Class Members.

9 For each Settlement Class Member, the Workweek Dispute Form will identify the number of
10 Eligible Workweeks that he or she was employed and inform the employee of his or her right to dispute
11 this number by completing and returning the form within sixty (60) days of the postmark date of the
12 Workweek Dispute Form. A Settlement Class Member's receipt of his or her share of the Net Settlement
13 Payments is not conditional on the submission of the Workweek Dispute Form. Absent the receipt of a
14 Workweek Dispute Form the number of workweeks identified in the Workweek Dispute Form shall be
15 deemed accurate. The settlement of any disputes concerning the number of Eligible Workweeks is
16 discussed in Section X, below.

17 If a Notice is returned from the initial notice mailing, the Settlement Administrator will perform
18 a skip trace in an attempt to locate a more current address. If the Settlement Administrator is successful
19 in locating a new address, it will re-mail the Notice to the Settlement Class Member. The response
20 deadline to be excluded or objections will be extended fifteen (15) calendar days for any Settlement
21 Class Member who is re-mailed a notice by the Settlement Administrator, unless the 15th day falls on a
22 Sunday or court holiday, in which case the deadline will be extended to the next day on which the U.S.
23 Postal Service is open. Further, any Notices returned with a forwarding address to the Settlement
24 Administrator, as non-deliverable before the deadline date, shall be sent to the forwarding address
25 affixed thereto.

26 Should any member of the Settlement Class timely submit a Workweek Dispute Form with a
27 deficiency, the Settlement Administrator shall, within five (5) calendar days of receipt by the Settlement
28 Administrator of each timely submitted Workweek Dispute Form, send a deficiency notice. The

1 deficiency notice will provide the member of the Settlement Class no more than fourteen (14) days from
2 the mailing of the deficiency notice to postmark a written response to cure all deficiencies. The failure
3 of a member of Settlement Class to timely submit a Workweek Dispute or timely respond to a notice of
4 deficiency shall invalidate the dispute unless all Parties' counsel agree to allow the dispute.

5 No later than twenty-one (21) days before the Final Approval Hearing, the Settlement
6 Administrator shall provide counsel for Defendant and Class Counsel with a declaration attesting to the
7 completion of the Notice process, including the number of attempts to obtain valid mailing addresses
8 for and re-sending of any returned Notices, as well as the number of valid Workweek Dispute Forms,
9 opt-outs and deficiencies that the Settlement Administrator received.

10 **B. Objections.**

11 In order for any Settlement Class member to object to this Settlement, or any term of it, the
12 person making the objection must not submit a request for exclusion (i.e., must not opt out). To object
13 to the Settlement in writing, a Class Member may send the objection to the Settlement Administrator by
14 sixty (60) days after Notice of the Proposed Class Action Settlement was initially mailed to the
15 Settlement Class members. A Settlement Class member making an objection may appear at the Final
16 Approval Hearing with or without submitting any written objection. The Settlement Class member may
17 appear personally or through an attorney, at his or her own expense, at the Final Approval hearing to
18 present his or her objection directly to the Court. If a Settlement Class member objects to the Settlement,
19 the Settlement Class member will remain a member of the Settlement Class and if the Court approves
20 this Agreement, the Settlement Class member will be bound by the terms of the Settlement and Final
21 Approval Order in the same way and to the same extent as a Settlement Class member who does not
22 object. The date of mailing of the Notice to the objecting Settlement Class member shall be conclusively
23 determined according to the records of the Settlement Administrator. The Court retains final authority
24 with respect to the consideration and admissibility of any Settlement Class member objections. Any
25 Settlement Class member who submits an objection may also participate in the settlement.

26 Named Plaintiff hereby endorses the Settlement as fair, reasonable and adequate and in the best
27 interests of the Settlement Class.

28 **C. Opportunity to be Excluded and Defendant's Opt-Out Threshold.**

1 In order for any Settlement Class Member to validly exclude himself or herself from the
2 Settlement Class and the Settlement (i.e., to validly opt out), a written request for exclusion ("Request
3 to be Excluded") must be signed by the Settlement Class Member or his or her authorized representative
4 and must be sent to the Settlement Administrator, postmarked by no later than sixty (60) days after the
5 date the Settlement Administrator initially mails the Notice to the Settlement Class Members. The
6 Notice shall contain instructions on how to opt out.

7 The date of the initial mailing of the Notice, and the date the signed Request to be Exclude was
8 postmarked, shall be conclusively determined according to the records of the Settlement Administrator.
9 Any Settlement Class member who timely and validly submits a Request to be Excluded from the
10 Settlement Class and the Settlement will not be entitled to any portion of the Net Settlement Payments,
11 will not participate in the Settlement, will not be bound by the terms and conditions of the Settlement
12 or the final judgement, and will not have any right to object, appeal, or comment thereon.

13 Any member of the Settlement Class who does not timely file and mail a Request to be Excluded
14 from the Settlement Class will be deemed included in the Settlement Class in accordance with this
15 Settlement, and will be subject to the Release and all other terms of the Settlement.

16 In the event that 10% or more of the Class Members exercise their right to exclude themselves
17 and opt out of the Settlement and Settlement Agreement, Defendant retains the exclusive right, but not
18 the obligation, to withdraw from and terminate the Settlement, the Settlement Agreement, and
19 stipulation to class certification, and return all parties back to their same position before the Settlement
20 was reached and the Settlement Agreement was entered into. In the event that Defendant exercises such
21 rights under this paragraph, the Plaintiff and Defendant shall resume the Litigation through and until
22 there is a final settlement of the Litigation. Defendant must notify Class Counsel and the Court of such
23 a decision to withdraw and terminate the Settlement no later than five (5) days prior to the date of the
24 Final Approval Hearing. In the event of Defendant's withdrawal, no party may use the fact that the
25 Parties agreed to the Settlement for any reason, and Defendant shall pay all administration expenses
26 incurred through the date of its termination of the Settlement.

27 **D. Cooperation.**

28 The Parties and their respective counsel agree not to encourage members of the Settlement Class

1 to opt out of the Settlement, or to object to the Settlement, directly or indirectly, through any means.
2 However, Class Counsel reserves the right to encourage Class Members to participate in the Settlement.

3 **E. No Claim Form Requirement**

4 Settlement Class Members will not be required to submit a claim form to participate in the
5 Settlement.

6 **X. DISPUTES PROCEDURE**

7 Named Plaintiff and Defendant have agreed upon the following payment formula to resolve all
8 disputes submitted by Settlement Class members during the Settlement Period.

9 The Settlement Administrator will calculate the total number of workweeks for all Class
10 Members who were employed by Defendant during the Settlement Period ("Total Workweeks"). The
11 value of each Workweek shall be determined by the Settlement Administrator by dividing the Net
12 Settlement Fund by the total number of Workweeks available to the Class Members who do not opt out
13 in accordance with Section IX(C) above during the Settlement Period ("Workweek Point Value").

14 An "Individual Settlement Payment" for each Class Member will then be determined by
15 multiplying a Class Member's workweeks worked during the Settlement Period ("Eligible Workweeks")
16 by the Workweek Point Value. Eligible Workweeks are calculated as the number of days between a
17 Class Member's start date and end date working as an hourly-paid or non-exempt employee for
18 Defendant during the Settlement Period, divided by seven. Where a Class Member has worked multiple
19 eligible stints or tenures during the Settlement Period, the number of Eligible Workweeks in each
20 eligible stint will be added together to produce a total number of Eligible Workweeks for that Class
21 Member. The Individual Settlement Payment will be reduced by any required legal deductions, for each
22 participating Class Member.

23 If a member of the Settlement Class does not dispute the number of Eligible Workweeks set
24 forth in the Workweek Dispute Form, such person need not take further action to participate in the
25 Settlement. If the member of the Settlement Class disputes the number of Eligible Workweeks set forth
26 in the Workweek Dispute Form, such person must follow the directions in the Workweek Dispute Form
27 and in the Notice, including preparing a statement setting forth the number of Eligible Workweeks that
28 such person believes in good faith is correct, and stating that the member of the Settlement Class

1 authorizes the Settlement Administrator to review the Settlement Class member's personnel file and
2 leave management records to determine such information, and attaching any relevant documentation in
3 support thereof. The member of the Settlement Class must mail the signed and completed statement no
4 later than sixty (60) days after the date of the mailing of the Workweek Dispute Form, or the number of
5 Eligible Workweeks set forth in the Notice and Workweek Dispute Form will govern the Net Settlement
6 Payment to the member of the Settlement Class.

7
8 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation with
9 Class Counsel and counsel for Defendant, will review the pertinent payroll records showing the dates
10 the Settlement Class member was employed and the pertinent leave(s) taken, which records Defendant
11 agrees to make available to the Settlement Administrator and Class Counsel.

12 After consulting with Class Counsel and counsel for Defendant, the Settlement Administrator
13 shall compute the number of Eligible Workweeks to be used in computing the Settlement Class
14 member's pro rata share of the Net Settlement Amount. In the event there is a disparity between the
15 dates a Settlement Class member claims he or she worked during the Settlement Period and the dates
16 indicated by Defendant's records, Defendant's records will control unless inconsistent with paycheck
17 stub(s) (or bona fide copies thereof) provided by the Settlement Class member, in which case the
18 paycheck stub(s) will control. The Settlement Administrator's decision as to the total number of Eligible
19 Workweeks shall be final and non-appealable. The Settlement Administrator shall send written notice
20 of the decision on any such claim to the Settlement Class member, to Class Counsel, and counsel for
21 Defendant within ten (10) calendar days of receipt of the dispute.

22 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

23 **A. Distribution Formula.**

24 Members of the Settlement Class not opting out will receive a lump sum payment as good and
25 valuable consideration for the waiver and release of claims set forth in Section VII(A), above, in an
26 amount determined by the Settlement Administrator in accordance with the provisions of this
27 Agreement.

28 The lump sum payment to each member of the Settlement Class not excluding him/ herself will

1 be determined in accordance with the procedure set forth in Section X.

2 **B. Funding of Settlement.**

3 Within thirty (30) calendar days following the date on which the Court grants Final Approval of
4 the Settlement and a determination of the pro-rata share of the Maximum Settlement Amount to which
5 each member of the Settlement Class is entitled, Defendant will deposit the Maximum Settlement
6 Amount and the Employer Taxes into an interest-bearing trust account for the benefit of the participating
7 Settlement Class members and Class Counsel, through the Settlement Administrator.

8 **C. Potential Increase in Funding.**

9 Defendant represents that there are approximately 97,351 Workweeks at issue for the Class
10 Members prior to September 6, 2022. If the amount of workweeks within the Settlement Period is
11 determined to be more than 15% higher than Defendant's initial estimate (i.e., if it is 111,954 or more
12 workweeks) at the time of Preliminary Approval of the Class Settlement, then under the provisions of
13 Section I(W) above, which defines the Negotiated Class End Date, the Maximum Settlement Amount
14 potentially may be increased, at Defendant's discretion and option, by the average gross payout to the
15 Class Members based on the 111,954 workweeks, as set forth under the provisions of Section I(W)
16 above, which defines the Negotiated Class End Date. The Maximum Settlement Amount will not be
17 reduced due to Defendant's estimate.

18 **D. Time for Distribution.**

19 The Settlement Administrator shall cause the Maximum Settlement Amount (inclusive of the
20 Net Settlement Amount, the Court approved attorney's fees and Litigation costs, Court approved
21 enhancement to Named Plaintiff, and PAGA Settlement) and the Employer Taxes to be mailed within
22 twenty-one (21) calendar days following the date of funding of the Maximum Settlement Amount and
23 accompanying Employer Taxes.

24 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
25 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search
26 and, if another address is identified, shall mail the check to the newly identified address. Any settlement
27 checks remaining uncashed after one hundred and eighty (180) days shall be deemed unpaid residue
28 pursuant Code of Civil Procedure Section 384(a). In accordance with Code of Civil Procedure Section

384(b), the parties shall follow the procedure set for in (1) – (5) below in regard to unpaid residue:

- (1) Unpaid residue (uncashed or returned checks) will be paid, with interest, to One Justice, 1055 Wilshire Blvd, Suite 1660 Los Angeles, CA 90017, which has been selected by the parties as a nonprofit organization that operates in the counties in which the Settlement Class lives and that supports projects that will benefit the class or similarly situated persons, or that promotes the law consistent with the objectives and purposes of the underlying causes of action, and that provides civil legal services to the indigent.
- (2) The attorneys for the parties shall file, with the Motion for Final Approval, a stand-alone Stipulation to Amend Judgment and Proposed Stipulated Amended Judgment (Section 384) memorializing the parties' agreement to amend the judgment to adopt the administrator's determination of amount of unpaid residue, plus interest, if any, from the date of entry of the initial judgment, to be paid to the cy pres;
- (3) The parties shall attach to the Stipulation a [Proposed] Stipulated Amended Judgment form with a signature line for the court and blanks for the amount of residue plus interest to be added to the judgment and the total amount of the amended judgment;
- (4) Along with the Final Report, the administrator shall file, with the court, a photocopy of the attorneys' Stipulation to Amend Judgment along with a [Proposed] Stipulated Amended Judgment form with the amount of residue plus interest to be added to the judgment and the total amount of the judgment, plus interest, filled in;
- (5) The court signs and enters the Stipulated Amended Judgment;
- (6) In such event, the Class Members and PAGA Employees will nevertheless remain bound by this Settlement Agreement, including the release of the Released Claims.

XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant, policies

1 or bonus programs. Any payments made under the terms of this Settlement shall not be applied
2 retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of
3 compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retains
4 the right to modify the language of their benefit plans, policies and bonus programs to effect this intent
5 and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours
6 paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and
7 bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that
8 additional contributions or benefits are not required by this Settlement.

9 **XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

10 Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not
11 seek or receive an amount in excess of \$244,167.00, which represents 33 1/3% of the Maximum
12 Settlement Amount for all past and future attorneys' fees necessary to prosecute, settle and administer
13 the Litigation and this Settlement. Additionally, Defendant shall not oppose an application by Class
14 Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$25,000.00, as supported
15 by declaration by Class Counsel, which represents all past and future Litigation costs and expenses
16 necessary to prosecute, settle and administer the Litigation and this Settlement. Any attorneys' fees or
17 Litigation costs awarded to Class Counsel by the Court as part of the Maximum Settlement Amount
18 shall be deducted from the Maximum Settlement Amount for the purpose of determining the Net
19 Settlement Amount. The "future" aspect of these amounts include, without limitation, all time and
20 expenses expended by Class Counsel in defending the Settlement and securing preliminary and Final
21 Approval (including any appeals therein). There will be no additional charge of any kind to either the
22 members of the Settlement Class or request for additional consideration from Defendant for such work.
23 This amount shall include all attorneys' fees, Litigation costs, and expenses for which Named Plaintiff
24 and Class Counsel could claim under any legal theory whatsoever. Within twenty-one (21) calendar
25 days following the date the settlement is funded pursuant to Section XI(B), the Settlement Administrator
26 shall disburse payment from the Maximum Settlement Amount for the amount of attorneys' fees and
27 Litigation costs approved by the Court to Class Counsel. Should the Court approve a lesser percentage
28 or amount of fees and/or Litigation costs than the amount that Class Counsel ultimately seeks, then any

1 such unapproved portion or portions shall revert into the Net Settlement Amount to be distributed
2 between the participating Settlement Class Members on a pro-rata basis. Even in the event that the Court
3 reduces or does not approve the requested award to Class Counsel's request for attorney's fees and costs,
4 Class Counsel shall not have the right to revoke this settlement, and it will remain binding.
5

6 **XIV. ENHANCEMENT TO NAMED PLAINTIFF**

7 Defendant shall not oppose an application by Named Plaintiff to be appointed as the Class
8 Representative and for an enhancement payment of up to \$5,000.00, and Named Plaintiff shall not seek
9 or receive an amount in excess of \$5,000.00 in exchange for his services as Class Representative (i.e.,
10 Named Plaintiff's class representative enhancement / service award). Any enhancement awarded to
11 Named Plaintiff by the Court as part of the Maximum Settlement Amount shall be deducted from the
12 Maximum Settlement Amount for the purpose of determining the Net Settlement Amount, is in addition
13 to the payment to which Named Plaintiff is entitled as a Class Member, and shall be reported on IRS
14 Form 1099. If the Court approves an enhancement of less than \$5,000.00 to Named Plaintiff, then the
15 unapproved portion or portions shall revert into the Net Settlement Amount to be distributed between
16 the participating Settlement Class Members on a prorata basis. Even in the event that the Court reduces
17 or does not approve the requested Class Representative's enhancement payment, Named Plaintiff shall
18 not have the right to revoke this settlement, and it will remain binding.

19 **XV. TAXATION AND ALLOCATION**

20 The Parties agree that all employment taxes and other legally required withholdings will be
21 withheld from payments to the members of the Settlement Class and Named Plaintiff based on the
22 Parties stipulated allocation of the Net Settlement Amount as provided for in this Section.
23

24 In Defendant's sole discretion, and to which Named Plaintiff and Class Counsel do not object,
25 the amount of federal income tax withholding will be based upon a flat withholding rate for
26 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
27 supplemented. Income tax withholding will also be made pursuant to applicable state and/or local
28 withholding codes or regulations.

For withholding tax characterization purposes and payment of taxes, the Net Settlement Amount shall be deemed and is allocated by the Parties as follows (“Net Settlement Allocation”):

- (1) 33 1/3% as wages; and
- (2) 66 2/3% as penalties and interest.

Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement, by the Settlement Administrator. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

Finally, any and all Employer Taxes which Defendant normally would be responsible for paying based on the Net Settlement Payments made to the individual Class Members will be paid by Defendant in addition to and not as a deduction from the Maximum Settlement Amount based on the stipulated Net Settlement Allocation.

XVI. PRIVATE ATTORNEYS GENERAL ACT ALLOCATION

A. PAGA Payment Amount

In order to implement the terms of this Settlement and to settle claims alleged under PAGA, California *Labor Code* section 2698, *et seq.*, the Parties agree to allocate \$40,000.00 from the Maximum Settlement Amount as penalties authorized by PAGA. Seventy-five percent (75%) of the PAGA Settlement (totaling \$30,000) will be paid to the Labor and Workforce Development Agency and 25% of the PAGA Settlement (totaling \$10,000) will be distributed to the PAGA Employees, through the Settlement Administrator and at no additional cost to Defendant. A Request to be Excluded does not exclude a PAGA Employee from the release of claims under California Labor Code § 2698, *et seq.* under the PAGA Release set forth in this Agreement, and a PAGA Employee will receive his or her Individual PAGA Settlement Payment even if he or she submits a valid Request to be Excluded.

Within twenty one (21) calendar days following the date the settlement is funded pursuant to Section XI(B), the Settlement Administrator shall disburse the 75% of the PAGA Settlement to the California Labor and Workforce Development Agency (“LWDA”) and Plaintiff’s counsel will provide notice to the LWDA of the fact that the settlement has been approved by the court along with a copy of

1 the settlement agreement and the court order confirming the approval of the settlement through the
2 appropriate LWDA/DIR website.

3
4 **B. PAGA Distribution Formula.**

5 The Settlement Administrator will calculate the total number of PAGA Pay Periods for all
6 PAGA Employees who were employed by Defendant during the PAGA Settlement Period ("Total
7 PAGA Pay Periods"). The value of each PAGA Pay Period shall be determined by the Settlement
8 Administrator by dividing the employees' 25% portion of the PAGA Settlement (\$10,000) by the total
9 number of Pay Periods available to PAGA Employees who do not opt out in accordance with Section
10 IX(C) above ("Pay Period Point Value").

11 An "Individual PAGA Settlement Payment" for each PAGA Employee will be proportionally
12 based on compensable workweeks within the PAGA Period. It will be determined by multiplying a
13 PAGA Employee's workweeks worked during the PAGA Settlement Period ("Eligible Pay Periods")
14 by the Pay Period Point Value. Eligible Pay Periods are calculated as the number of days between a
15 PAGA Employee's start date and end date working as an hourly-paid or non-exempt employee for
16 Defendant during the PAGA Settlement Period, divided by 7. Where a PAGA Employee has worked
17 multiple eligible stints or tenures during the PAGA Settlement Period, the number of Eligible Pay
18 Periods in each eligible stint will be added together to produce a total number of Eligible Pay Periods
19 for that PAGA Employee. The Individual PAGA Settlement Payment will be reduced by any required
20 legal deductions, for each participating PAGA Employee.

21 **C. Taxation and Allocation.**

22 The PAGA Settlement comprises payments for penalties and interest. It shall not be deemed as
23 wages and no contribution regarding taxes are to be paid by Defendant regarding any portion of the
24 PAGA Settlement. Forms 1099 regarding the PAGA Settlement will be distributed at times and in the
25 manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this
26 Agreement, by the Settlement Administrator.

27 **XVII. COURT APPROVAL**

28 This Agreement and the Settlement is contingent upon Final Approval by the Court and the entry
of judgment. Named Plaintiff and Defendant agree to take all steps as may be reasonably necessary to

1 secure both Preliminary Approval and Final Approval of the Settlement, to the extent not inconsistent
2 with the terms of this Agreement, and will not take any action adverse to each other in obtaining court
3 approval, and, if necessary, appellate approval, of the Settlement in all respects. Named Plaintiff and
4 Defendant expressly agree that they will not file any objection to the terms of the Settlement or assist
5 or encourage any person or entity to file any such objection.
6

7 In the event it becomes impossible to secure approval of the Settlement, the Parties shall be
8 restored to their respective positions in the Litigation, ante mediation, except as otherwise provided in
9 Section XVIII, below.

10 **XVIII. MISCELLANEOUS PROVISIONS**

11 **A. Stay of Litigation.**

12 Named Plaintiff and Defendant agree to the stay of all discovery, hearings, and deadlines in the
13 Litigation, pending Final Approval of the Settlement by the Court.

14 **B. Interpretation of the Agreement.**

15 This Agreement constitutes the entire agreement between Named Plaintiff and Defendant.
16 Except as expressly provided herein, this Agreement has not been executed in reliance upon any other
17 written or oral representations or terms, and no such extrinsic oral or written representations or terms
18 shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this
19 Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic
20 evidence. The Agreement will be interpreted and enforced under the laws of the State of California,
21 both in its procedural and substantive aspects, without regard to its conflict of laws provisions. Any
22 claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely
23 and exclusively in the Superior Court of the State of California for the County of Los Angeles, and
24 Named Plaintiff and Defendant hereby consent to the personal jurisdiction of the Court over them solely
25 in connection therewith. Named Plaintiff, on her own behalf and on behalf of the Settlement Class, and
26 Defendant participated in the negotiation and drafting of this Agreement and had available to them the
27 advice and assistance of independent counsel. As such, neither Named Plaintiff nor Defendant may
28 claim that any ambiguity in this Agreement should be construed against the other.

1 The terms and conditions of this Agreement constitute the exclusive and final understanding and
2 expression of all agreements between Named Plaintiff and Defendant with respect to the Settlement of
3 the Litigation. The Agreement may be modified only by a writing signed by the original signatories and
4 approved by the Court.

5 **C. Further Cooperation.**

6 Named Plaintiff and Defendant and their respective attorneys shall proceed diligently to prepare
7 and execute all documents, to seek the necessary approvals from the Court, and to do all things
8 reasonably necessary or convenient to consummate the Agreement as expeditiously as possible.

9 **D. Confidentiality of Documents and Settlement.**

10 After the expiration of any appeals period, Named Plaintiff, the Settlement Administrator, and
11 Class Counsel shall maintain the confidentiality of all documents, deposition transcripts, declarations
12 and other information obtained in the lawsuit, unless necessary for appeal or such documents are ordered
13 to be disclosed by the Court or by a subpoena. After the expiration of any appeals period, Named
14 Plaintiff and his counsel shall destroy or delete documents or copies or digital records of documents
15 produced by Defendant and its counsel regarding the Settlement Class members such as wage statements
16 and payroll records, other than documents which pertain directly to Named Plaintiff.

17 Any settlement shall remain confidential until a motion for preliminary approval is filed with
18 the Court. The settlement documents will be filed with the Court and subject to disclosure to the public;
19 however, the Parties and their counsel agree that they will not issue any press releases, initiate any
20 contact with the press, respond to any press inquiry or have any communications with the press about
21 the facts, amount or terms of the settlement.

22 **E. Counterparts.**

23 The Agreement may be executed in one or more actual or non-original counterparts, all of which
24 will be considered one and the same instrument and all of which will be considered duplicate originals.

25 **F. Authority.**

26 Each individual signing below warrants that he or she has the authority to execute this
27 Agreement on behalf of the party for whom or which that individual signs.

28 **G. No Third-Party Beneficiaries.**

H. Modification.

I. Deadlines Falling on Weekends or Holidays.

J. Severability.

APPROVED AS TO FORM AND CONTENT:

Name: _____
Position: _____
For LUX BUS AMERICA CO _____

1 APPROVED AS TO FORM:

2 Date: May 10, 2023

MOON & YANG, APC

3
4 By: 

5 Kane Moon
6 Lilit Ter-Astvatsatryan

7 Attorneys for Plaintiff Arthur Laws

8 Dated: April 19, 2023

CALL & JENSEN
A Professional Corporation
Jacqueline Beaumont
Anurita S. Varma

9
10
11 By: _____
12 Anurita S. Varma

13 Attorneys for Defendant Lux Bus America Co.
14
15
16
17
18
19
20
21
22
23

24 CALL &
25 JENSEN
26 EST. 1981

1 Named Plaintiff, members of the Settlement Class, and Defendant are direct beneficiaries of this
2 Agreement, but there are no third-party beneficiaries.

3 **H. Modification.**

4 This Agreement may not be changed, altered, or modified, except in a writing signed by the
5 Parties, and approved by the Court. Notwithstanding the forgoing, the Parties agree that any dates
6 contained in this Agreement may be modified by agreement of the Parties in writing without Court
7 approval if the Parties agree and cause exists for such modification. This Agreement may not be
8 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

9 **I. Deadlines Falling on Weekends or Holidays.**

10 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal
11 holiday, that deadline shall be continued until the following business day.

12 **J. Severability.**

13 In the event that any one or more of the provisions contained in this Agreement shall for any
14 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
15 unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel,
16 on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid,
17 illegal, or unenforceable provision had never been included in this Agreement.

18
19 APPROVED AS TO FORM AND CONTENT:

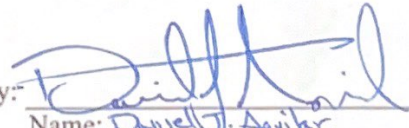
20 Date: _____, 2023

ARTHUR LAWS, on behalf of himself and all
21 others similarly situated

22
23 By: _____
ARTHUR LAWS

24 Date: April 24, 2023

LUX BUS AMERICA CO.

25
26 By: 
Name: Daniel J. Aguirre
Position: General Counsel
For LUX BUS AMERICA CO
27
28