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

CINDY FLORES PINA and LISA HOWZE,
individuals on behalf of themselves, the State of
California, as private attorneys general, and on
behalf of all others similarly situated,

Plaintiffs,

v.

HALLWAY HEALTHCARE, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No.: RG21114140

**Amended Stipulation of Class and PAGA
Settlement**

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AMENDED STIPULATION OF CLASS AND PAGA SETTLEMENT

This Stipulation of Class and PAGA Settlement (“Settlement Agreement”) is made and entered into by: **(1)** Plaintiffs Cindy Flores Pina and Lisa Howze, individually and in their representative capacity on behalf of the Settlement Class, as defined below, and as private attorneys general on behalf of the State of California; and **(2)** Defendant Hallway Healthcare, Inc. This Settlement Agreement is subject to the approval of the Court, pursuant to California Rules of Court, rule 3.769, subdivisions (c), (d), and (e), and is made for the sole purpose of attempting to consummate settlement of the action on a class-wide basis subject to the following terms and conditions. As detailed below, in the event the Court does not enter an order granting final approval of this Settlement Agreement or the conditions precedent are not met for any reason, this Settlement Agreement is void and of no force or effect whatsoever.

1. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into this definition section.

1.1. ACTION

“Action” shall mean the following civil action: *Cindy Flores Pina, et al. v. Hallway Healthcare, Inc.*, case number RG21114140, currently pending before the Superior Court of the State of California for the County of Alameda.

1.2. ADMINISTRATIVE EXPENSES

“Administrative Expenses” shall include all costs and expenses associated with and paid to the third-party settlement administrator to be paid from the Gross Settlement Amount.

1.3. APPLICABLE WAGE ORDERS

“Applicable Wage Orders” shall mean the California Industrial Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case, including IWC Wage Orders 4-2001 and 5-2001 and others that may be applicable. (Cal. Code of Regs., tit. 8, §§ 11040, 11050.)

1 **1.4. CLAIMS**

2 “Claims” shall mean the claims asserted in the Action.

3 **1.5. CLASS ATTORNEY FEES AND EXPENSES**

4 “Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount
5 attributable to attorney fees and litigation expenses. The Parties agree that the fee-portion of the Class
6 Attorney Fees and Expenses shall be up to 33.33% of the Gross Settlement Amount (i.e., \$118,333.33),
7 as approved by the Court, and the award of costs and expenses shall be up to an additional \$15,000.00.
8 In the event the Escalator Provision described below is triggered so as to increase the Gross Settlement
9 Amount, the Parties agree that Plaintiff can apply to the Court for a Class Attorney Fees and Expense
10 award proportional to the increase in the Gross Settlement Amount such that the maximum amount of
11 attorneys’ fees that may be requested from the Gross Settlement Amount remains 33.33% of the Gross
12 Settlement Amount *after* the upward adjustment required by the Escalator Provision.

13 **1.6. CLASS COUNSEL**

14 “Class Counsel” shall mean Jonathan Melmed, Kyle Smith, and Joanne Kim of Melmed Law
15 Group P.C.

16 **1.7. CLASS MEMBER**

17 “Class Member” shall mean any person who is a prospective member of the Settlement Class,
18 or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or successor-
19 in-interest.

20 **1.8. CLASS MEMBER DATA**

21 “Class Member Data” shall mean the list of all persons included in the Settlement Class and all
22 PAGA Workers that Defendant will compile from its records to reflect, to the extent known to
23 Defendant, those persons’ names, last known mailing address, telephone number, Social Security
24 number, and workweeks and pay periods (or data from which such information can be calculated)
25 during the Class Period and PAGA Period.

1.9. CLASS NOTICE

“Class Notice” shall mean the *Notice of Proposed Class Action Settlement*, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class Members along with the Share Form.

1.10. CLASS PARTICIPANTS

“Class Participants” shall mean all Class Members who do not timely request exclusion from the Class Settlement.

1.11. CLASS PERIOD

“Class Period” shall mean the period from September 16, 2017, through August 20, 2022.

1.12. CLASS REPRESENTATIVES

“Class Representatives” shall mean Plaintiffs Cindy Flores Pina and Lisa Howze.

1.13. CLASS SETTLEMENT

“Class Settlement” shall mean the settlement claims on behalf of the Settlement Class as embodied in this Settlement Agreement, which is subject to Court approval.

1.14. COMPLAINT

“Complaint” shall mean the current operative complaint in the Action.

1.15. COURT

“Court” shall mean the Superior Court of the State of California for the County of Alameda.

1.16. DEFENDANT

“Defendant” shall mean Defendant Hallway Healthcare, Inc.

1.17. DEFENSE COUNSEL

“Defense Counsel” shall mean Melinda S. Riechert, Sarah Zenewicz, and Kayla Cox of Morgan, Lewis & Bockius LLP.

1.18. EFFECTIVE DATE

“Effective Date” shall be the date when all of the following events have occurred: **(a)** this Settlement Agreement has been executed by all Parties and by Class Counsel and Defense Counsel; **(b)** the Court has given preliminary approval to the Class Settlement; **(c)** notice has been given to the Settlement Class providing them with an opportunity to request exclusion from the Class Settlement;

(d) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment certifying the Settlement Class and approving this Settlement Agreement; and (e) the later of the following events: (i) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) the dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or (iii) any appeal, writ, or the issuance of such other final appellate order upholding the Court's final order with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Class Settlement shall not become effective until the Court's order approving the Settlement Agreement is completely final and there is no further recourse by an appellant or objector who seeks to contest the Settlement Agreement. In the event no objections are filed, the Effective Date shall be after steps (a) through (d) are completed (i.e., the date that the court has entered a final order and judgment certifying the Settlement Class and approving this Settlement Agreement).

1.19. EMPLOYEE'S TAXES AND REQUIRED WITHHOLDING

"Employee's Taxes and Required Withholding" shall mean the employee's share of any and all applicable federal, state, or local payroll taxes, including those collected under authority of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State Unemployment Tax Act (SUTA) on the portion of any Class Participant's Individual Settlement Amount that constitutes wages. The Employee's Taxes and Required Withholdings will be withheld from the Individual Settlement Amounts paid from the Net Settlement Amount.

1.20. EMPLOYER'S TAXES

"Employer's Taxes" shall mean and refer to Defendant's share of payroll taxes (e.g., Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is owed on the portion of any Class Participant's Individual Settlement Amount that constitutes wages. The Employer's Taxes shall be separately paid by Defendant and shall not be paid from the Gross Settlement Amount or Net Settlement Amount.

1 **1.21. FINAL APPROVAL AND FAIRNESS HEARING**

2 “Final Approval and Fairness Hearing” shall mean the final hearing held to ascertain the
3 fairness, reasonableness, and adequacy of the Class Settlement.

4 **1.22. GROSS SETTLEMENT AMOUNT**

5 “Gross Settlement Amount” is the agreed upon non-reversionary settlement amount totaling
6 \$355,000.00 to be paid by Defendant in full settlement of the Released Claims asserted in this case,
7 inclusive of the Individual Settlement Amounts, Administrative Expenses, the Employee’s Taxes and
8 Required Withholdings, the Class Attorney Fees and Expenses, the Incentive Awards, and PAGA
9 Payment. Defendant shall separately pay its share of the Employer’s Taxes in addition to the Gross
10 Settlement Amount on the portion of each Individual Settlement Amount allocated as wages.

11 **1.23. HEARING ON PRELIMINARY APPROVAL**

12 “Hearing on Preliminary Approval” shall mean the hearing held on the motion for preliminary
13 approval of the Class Settlement.

14 **1.24. INCENTIVE AWARDS**

15 “Incentive Awards” shall mean any additional monetary payment provided to the Class
16 Representatives for their efforts and risks on behalf of the Settlement Class in this Action.

17 **1.25. INDIVIDUAL PAGA PAYMENT**

18 “Individual PAGA Payment” shall mean the amounts paid from the PAGA Payment to PAGA
19 Workers that shall in the aggregate comprise 25% of the PAGA Payment, namely \$12,500.00 as
20 consideration for settlement of claims for civil penalties under PAGA.

21 **1.26. INDIVIDUAL SETTLEMENT AMOUNT**

22 “Individual Settlement Amount” shall mean the amount which is ultimately distributed to each
23 Class Participant, less any Employee’s Taxes and Required Withholdings. The Individual Settlement
24 Amount does not include any portion of the PAGA Payment.

25 **1.27. LWDA PAGA PAYMENT**

26 “LWDA PAGA Payment” means the payment to be made to the California Labor and
27 Workforce Development Agency (“LWDA”) as its 75% share of the PAGA Payment, namely
28 \$37,500.00 as consideration for Settlement of claims for civil penalties under PAGA.

1 **1.28. NET SETTLEMENT AMOUNT**

2 “Net Settlement Amount” shall mean the Gross Settlement Amount minus: Administrative
3 Expenses; Class Attorney Fees and Expenses; the PAGA Payment; and Plaintiffs’ Incentive Awards.

4 **1.29. OPT OUT**

5 “Opt Out” shall refer to the process of submitting a timely and valid request for exclusion from
6 the Class Settlement in accordance with the terms of this Settlement Agreement and no later than the
7 Response Deadline.

8 **1.30. OPT-OUTS**

9 “Opt-Outs” shall mean all persons who timely and validly request exclusion from the Class
10 Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline.

11 **1.31. PAGA PAYMENT**

12 “PAGA Payment” means the penalties pursuant to PAGA that the Parties have agreed is a
13 reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is
14 \$50,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section 2699
15 and is to be distributed as follows: the LWDA PAGA Payment, which is seventy-five percent (75%)
16 (i.e., \$37,500.00) and twenty-five percent (25%) (i.e., \$12,500.00) to the PAGA Workers and
17 distributed to them as Individual PAGA Payments. Class Counsel shall give timely notice of this
18 Settlement Agreement to the LWDA pursuant to Labor Code section 2699, subdivision (l)(2).

19 **1.32. PAGA PERIOD**

20 “PAGA Period” shall mean the period from September 16, 2020, through August 20, 2022.

21 **1.33. PAGA SETTLEMENT**

22 “PAGA Settlement” shall mean the settlement of PAGA claims for civil penalties for alleged
23 Labor Code violations against the PAGA Workers brought by Plaintiffs on behalf of the State of
24 California and as representatives of the LWDA and as embodied in this Settlement Agreement, which
25 is subject to Court approval.

26 **1.34. PAGA WORKERS**

27 “PAGA Workers” shall mean all persons who performed work for Defendant’s clients and were
28 classified as an independent contractor during the during the PAGA Period. Defendant represents that

1 the PAGA Workers consists of approximately 157 employees that worked a total of approximately
2 2,616 pay periods during the PAGA Period.

3 **1.35. PARTIES**

4 “Parties” shall mean Plaintiffs and Defendant.

5 **1.36. PLAINTIFFS**

6 “Plaintiffs” shall mean Plaintiffs Cindy Flores Pina and Lisa Howze.

7 **1.37. PRELIMINARY APPROVAL DATE**

8 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
9 preliminarily approving this Settlement Agreement.

10 **1.38. RELEASED CLAIMS**

11 “Released Claims” shall mean all claims asserted in, arising from, or related to the allegations
12 set forth in the Action, including all claims that could have been asserted as part of the Action based
13 on the facts alleged including all claims arising from any alleged misclassification as an independent
14 contractor and claims for: unpaid wages, failure to pay minimum wages; failure to pay straight time
15 compensation, overtime or double-time compensation (including failure to correctly calculate and pay
16 based on the regular rate of compensation) including for any time worked off-the-clock, which includes
17 any time for Covid-19 testing; that meal or rest periods were not provided, were missed, late, short,
18 interrupted, or that employees were not permitted to leave the premises during meal or rest periods,
19 and any claim for any alleged failure to pay premiums for such meal or rest periods, or to pay such
20 premiums at the regular rate of compensation; reimbursement for business expenses or any other claim
21 that Defendant allowed or required employees to bear any of the costs associated with the operation of
22 Defendant’s business, including without limitation the cost of Covid tests, use of personal vehicles,
23 personal phones and data, personal equipment, or any other business expense incurred; failure to timely
24 pay all wages due twice per month, failure to pay all wages due at the time of separation; inaccurate or
25 otherwise improper wage statements and/or failure to keep or maintain accurate records; any claim for
26 unfair business practices arising out of or related to any or all of the aforementioned claims; any claim
27 for penalties arising out of or related to any or all of the aforementioned claims, including, but not
28 limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-

1 time penalties; and attorneys' fees and costs; all claims arising under the California Labor Code
2 (including but not limited to sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 510, 512, 1174,
3 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2775, 2802, 2804, 2698 et seq.); and all claims
4 arising under the Wage Orders of the California Industrial Welfare Commission, California Business
5 and Professions Code section 17200, et seq., the California Labor Code based on the aforementioned
6 claims.

7 **1.39. RELEASED PARTIES**

8 "Released Parties" shall mean Defendant and any parent, subsidiary, affiliated or related entities
9 (including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged
10 joint employers), and each of their respective past, present and future agents, employees, servants,
11 officers, directors, partners, members, trustees, fiduciaries, representatives, shareholders, stockholders,
12 attorneys, equity sponsors, (defined as a company/corporation and/or partnership that is, directly or
13 indirectly, under common control with that Defendant or any of its parents and/or affiliates), divisions,
14 assigns, predecessors, successors, insurers, and consultants.

15 **1.40. RELEASING PARTIES**

16 "Releasing Parties" shall mean every Class Participant and all persons purporting to act on their
17 behalf or purporting to assert a claim under or through them, including, but not limited to, their
18 dependents, heirs, assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees,
19 conservators, guardians, personal representatives, and successors-in-interest, whether individual, class,
20 representative, legal, equitable, direct or indirect, or any other type or in any other capacity.

21 **1.41. RESPONSE DEADLINE**

22 "Response Deadline" shall mean the date forty-five (45) days following the date on which the
23 Settlement Administrator first mails Class Notice to the Class Members and the last day on which Class
24 Members may submit a request for exclusion and/or objection to Class Settlement.

25 **1.42. SETTLEMENT ADMINISTRATOR**

26 "Settlement Administrator" shall mean ILYM Group, Inc. (or other administrator agreed on by
27 the parties) which the Parties have agreed will be responsible for administration of the Class Settlement
28 and related matters.

1.43. SETTLEMENT CLASS

“Settlement Class” shall mean all persons who performed work for Defendant’s clients and were classified as an independent contractor during the during the Class Period. Defendant represents that the Settlement Class consists of approximately 197 Class Members that worked a total of approximately 7,500 workweeks during the Class Period.

2. FACTUAL AND PROCEDURAL BACKGROUND

2.1. PLAINTIFFS’ CLAIMS

Plaintiffs, individually and in their representative capacity on behalf of the Settlement Class, and as private attorneys general on behalf of the State of California, have alleged the following violations: **(1)** penalties pursuant to PAGA for willful misclassification in violation of Labor Code sections 226.8 and 2775; **(2)** failure to pay minimum wage for all hours worked in violation of Labor Code sections 1194 and 1194.2, and the Applicable Wage Orders; **(3)** failure to pay proper overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the Applicable Wage Orders; **(4)** failure to provide compliant rest periods and pay missed rest break premiums in violation of Labor Code section 226.7 and the Applicable Wage Orders; **(5)** failure to provide compliant meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512, and the Applicable Wage Orders; **(6)** failure to maintain accurate employment records in violation of Labor Code section 1174; **(7)** failure to pay timely wages during employment in violation of Labor Code sections 204, 210; **(8)** failure to pay all wages due and owing at separation in violation of Labor Code sections 201, 202, and 203; **(9)** failure to reimburse business expenses in violation of Labor Code sections 2802 and 2804; **(10)** failure to provide complete and accurate wage statements in violation of Labor Code sections 226 and 226.3; **(11)** deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); and **(12)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–2699.6).

2.2. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION

Class Counsel has conducted significant informal discovery during the prosecution of the Action. This discovery, investigation, and prosecution has included, among other things, **(a)** over a

dozen telephonic conferences with Plaintiffs; **(b)** inspection and analysis of hundreds of pages of documents and other information produced by Plaintiffs and Defendant; **(c)** analysis of employment data from a sample of Class Members; **(d)** an analysis of the legal positions taken by Defendant; **(d)** investigation into the viability of class treatment of the claims asserted in the Action; **(e)** analysis of potential class-wide damages, including information sufficient to understand Defendant's potential defenses to Plaintiffs' claims; **(f)** research of the applicable law with respect to the claims asserted in the Complaint and the potential defenses thereto; and **(g)** assembling and analyzing of data for calculating damages.

Class Counsel and the Class Representatives have vigorously prosecuted this case, and Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and discovery to assess the relative merits of the claims of the Class Representatives and of the defenses to them. On April 22, 2022, after such discovery, investigation, and prosecution, the Parties attended a full-day mediation with an experienced employment law mediator, Steven Pearl, Esq., which culminated in a settlement in principle, the terms of which are elaborated in this Settlement Agreement.

2.3. ALLEGATIONS OF THE CLASS REPRESENTATIVES AND BENEFITS OF SETTLEMENT

The document and data exchange in this matter, as well as discussions between counsel, have been adequate to give the Class Representatives and Class Counsel a sound understanding of the merits of their positions and to evaluate the value of the claims of the Settlement Class. The informal discovery conducted in this Action and the information exchanged by the Parties through pre-mediation discussions are sufficient to reliably assess the merits of the Parties' respective positions and to compromise the issues on a fair and equitable basis.

The Class Representatives and Class Counsel believe that the claims, causes of action, allegations, and contentions asserted in the Action have merit. However, the Class Representatives and Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action against Defendant through trial and through appeals. Class Counsel has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential

1 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the class and
2 the risk that the PAGA claims could be deemed unmanageable. Class Counsel is mindful of the
3 potential problems of proof under, and possible defenses to, the claims alleged in the Action.

4 The Class Representatives and Class Counsel believe that the settlement set forth in this
5 Settlement Agreement confers substantial benefits upon Plaintiffs and the Settlement Class and that an
6 independent review of this Settlement Agreement by the Court in the approval process will confirm
7 this conclusion. Based on their own independent investigation and evaluation, Class Counsel has
8 determined that the settlement set forth in this Settlement Agreement is in the best interests of Plaintiffs
9 and the Class Members.

10 **2.4. DEFENDANT'S DENIALS OF WRONGDOING AND LIABILITY**

11 Defendant has denied and continues to deny all allegations, claims, and contentions alleged by
12 Plaintiffs in the Action. Defendant has expressly denied and continues to deny all charges of
13 wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions
14 alleged in the Action. Defendant contends that it complied with California and federal wage and hour
15 laws and has dealt legally and fairly with Plaintiffs and the Class Members.

16 Defendant further denies that, for any purpose other than settling this Action, these claims are
17 appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further
18 proceedings in the Action would be protracted and expensive and that it is desirable that the Action be
19 fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement
20 Agreement to dispose of burdensome and protracted litigation, to permit the operation of Defendant's
21 respective businesses without further expensive litigation and the distraction and diversion of their
22 personnel with respect to matters at issue in the Action. Defendant has also taken into account the
23 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
24 Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled
25 in the manner and upon the terms and conditions set forth in this Settlement Agreement.

26 **2.5. INTENT OF THE SETTLEMENT**

27 The Settlement Agreement set forth herein intends to achieve the following: **(1)** entry of an
28 order approving the Class Settlement and the PAGA Settlement; **(2)** entry of judgment of the Action;

(3) discharge of the Released Parties from liability for any and all of the Released Claims; and
(4) discharge of Defendant from liability for any and all claims arising out of the Action.

3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

For the purposes of this Settlement Agreement and the Class Settlement of this Action only, the Parties agree to conditional class certification of the Settlement Class. Defense Counsel believes this conditional certification is appropriate because the Released Claims are being compromised without need to establish the elements of those claims on which liability turns. The certification of the Settlement Class shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, including without limitation, that certification of a class for trial purposes is or would be warranted, appropriate or proper; or that Plaintiffs could establish any of the requisite elements for class treatment of any of the claims in the Action.

In the event that the Settlement Agreement is not finally approved by the Court, the Effective Date is not achieved, or the Settlement Agreement is rejected, terminated, or otherwise rendered null and void as set forth herein, then certification of the Settlement Class shall be automatically vacated, shall be void *ab initio*, of no force or effect, and shall not constitute evidence or a binding determination that the requirements for certification of a class for trial purposes in this Action or in any other action which have been, are or can be, satisfied. Further, if the Agreement does not reach the Effective Date, Plaintiffs agree that Plaintiffs will not argue, claim, reference, or otherwise raise any preliminary approval of the Settlement Class in connection with any later proceeding before the Court.

4. APPOINTMENT OF CLASS COUNSEL

For purposes of this Settlement Agreement and subject to the Court's approval, the Parties agree to the appointment of Class Counsel as counsel for the Settlement Class and the effectuation of the Class Settlement pursuant to this Settlement Agreement.

5. CONSIDERATION

5.1. SETTLEMENT AMOUNT

The Parties agree to settle this Action for the Gross Settlement Amount of \$355,000.00. There shall be no reversion to Defendant. Provided the Court approves the Settlement Agreement and the Effective Date occurs, Defendant shall pay the Gross Settlement Amount in full. The Gross Settlement

1 Amount and other actions and forbearances taken by Defendant shall constitute adequate consideration
2 for the Class Settlement and PAGA Settlement, and will be made in full and final settlement of: the
3 Released Claims, the Class Attorney Fees and Expenses, Administrative Expenses, the Incentive
4 Awards, the PAGA Payment and release PAGA claims, and any other obligation of Defendant under
5 this Settlement Agreement (other than the Employer's Taxes on the portion of the Net Settlement
6 Amount allocated to the payment of wages).

7 After the Court issues an order preliminarily approving this Settlement Agreement, the
8 Settlement Administrator will distribute the Class Notice to the Class Members, which shall describe
9 the terms of this Settlement Agreement and procedures to Opt Out, object, or participate in the Class
10 Settlement which shall identify the Class Member, the number of workweeks worked by each Class
11 Member, as well as the estimated amount of the Individual Settlement Amount the Class Member can
12 expect to receive once the Class Settlement and the amount of the Individual PAGA Payment the
13 PAGA Workers could receive (if any) if the Settlement becomes effective on the Effective Date.

14 **5.2. INCENTIVE AWARDS FOR PLAINTIFFS**

15 Plaintiffs may petition the Court to approve Incentive Awards in an amount up to \$10,000.00
16 for Cindy Flores Pina and \$10,000.00 for Lisa Howze to acknowledge their efforts on behalf of the
17 Settlement Class and the LWDA in this Action, including assisting in the investigation and consulting
18 with Class Counsel and providing crucial documents to Class Counsel. Any Incentive Award approved
19 by the Court shall be paid to Plaintiffs from the Gross Settlement Amount and shall be in addition to
20 any distribution to which they may otherwise be entitled as a Class Participants and PAGA Workers.
21 Any Incentive Award approved by the Court shall not be considered wages, and the Settlement
22 Administrator shall issue to Plaintiffs an IRS Form 1099 reflecting such payment. Plaintiffs shall be
23 responsible for the payment of all taxes with respect to any Incentive Award approved by the Court
24 and shall hold Defendant harmless from all liability with regard thereto. If the Court awards Incentive
25 Awards that are less than the requested amounts, the unawarded amounts shall remain in the Net
26 Settlement Amount and be distributed to Class Participants. In the event the Court reduces or does not
27 approve the requested Incentive Awards, Plaintiffs and Class Counsel shall not have the right to modify
28

1 or revoke the Settlement Agreement, or to appeal such order, nor will Plaintiffs or Class Counsel seek,
2 request, or demand an increase to the Gross Settlement Amount on that basis.

3 **5.3. PAYMENT TO CLASS PARTICIPANTS**

4 Each Class Participant shall be mailed a payment of the Individual Settlement Amount, which
5 is a share of the Net Settlement Amount based on the pro rata number of workweeks by the Class
6 Participant during the Class Period as a proportion of all workweeks for all Class Participants during
7 the Class Period. There is no need for a Class Participant to submit a claim form in order to be eligible
8 for and to receive an Individual Settlement Amount. Each Class Participant, including Plaintiffs, shall
9 be responsible for the payment of the Employee's Taxes and Required Withholding with respect to his
10 or her Individual Settlement Amount and shall hold Defendant harmless from any and all liability with
11 regard thereto. Individual Settlement Amounts will be reduced by any required deductions for each
12 Class Participant, including Employee's Taxes and Required Withholding.

13 **5.4. PAGA PAYMENT**

14 The PAGA Payment amount is \$50,000.00, which the Parties have agreed is to be paid in
15 settlement of all PAGA claims released in this Settlement Agreement, which shall be distributed as the
16 LWDA PAGA Payment with 75% (\$37,500.00) to the State of California LWDA, and the remaining
17 25% (\$12,500.00) shall be distributed to all PAGA Workers. Each PAGA Worker shall be mailed their
18 pro rata portion of the PAGA Payment as their Individual PAGA Payment based on the pro rata number
19 of pay periods worked by each PAGA Worker during the PAGA Period as a proportion of all pay
20 periods worked by all PAGA Workers. The PAGA Payment must be approved by the Court.

21 **5.5. TAX TREATMENT AND PAYMENT**

22 Each Individual Settlement Amount will be allocated as 20% to wages, for which an IRS Form
23 W-2 will be issued, and 80% shall constitute alleged penalties, reimbursement and interest, for which
24 an IRS Form 1099 will be issued if required by law. The Employee's Taxes and Required Withholding
25 will be withheld from the wage portion of Class Participants' anticipated Individual Settlement
26 Amounts. Additionally, prior to the funding of the Gross Settlement Amount and final distribution, the
27 Settlement Administrator shall calculate the total Employer's Taxes due on the wage portion of the
28 Class Participants' Individual Settlement Amounts and issue instructions to Defendant to separately

1 fund these tax obligations/withholdings. The Parties understand that Plaintiffs and the Class
2 Participants who receive any payment pursuant to this Settlement Agreement shall be solely
3 responsible for all other individual tax obligations.

4 With respect to the Individual PAGA Payments to PAGA Workers, all such payments shall be
5 treated as payments owing for penalties and interest thereon and shall not be considered wages. The
6 Settlement Administrator shall issue to PAGA Workers an IRS Form 1099 reflecting such payment if
7 required by law. PAGA Workers shall be solely responsible for the payment of all taxes with respect
8 to any PAGA payments made to them.

9 **5.6. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

10 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
11 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
12 program sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
13 benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies,
14 or bonus programs. The payments made under the terms of this Settlement Agreement shall not be
15 applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other
16 form of compensation for the purposes of any of Defendant's benefit plan, policy, or bonus program.
17 Defendant retains the right to modify the language of its benefits plans, policies, and bonus programs
18 to reflect this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are
19 not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring term as defined
20 by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or
21 any other purpose, and that additional contributions or benefits are not required by this Settlement
22 Agreement. Defendant does not consider the Class Settlement payments "compensation" for purposes
23 of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs,
24 or any other plan sponsored by Defendant.

25 **5.7. CLASS ATTORNEY FEES AND EXPENSES**

26 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
27 an award of Class Attorney Fees and Expenses with the fee portion not to exceed 33.33% of the Gross
28

1 Settlement Amount (i.e., \$118,333.33) and the award of costs and expenses up to an additional
2 \$15,000.00.

3 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
4 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
5 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
6 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for
7 Class Attorney Fees and Expenses or the Court's award of Class Attorney Fees and Expenses is less
8 than set forth above, the amount not awarded will revert to the Net Settlement Amount to be distributed
9 to the Class Participants. This Settlement Agreement is not contingent upon the Court awarding Class
10 Counsel any particular amount in attorneys' fees and costs and, in the event that the Court reduces or
11 does not approve the requested Class Attorney Fees and Expenses amounts, Plaintiffs and Class
12 Counsel shall not have the right to modify or revoke the Settlement Agreement, or to appeal such order,
13 nor will Plaintiffs or Class Counsel seek, request, or demand an increase to the Gross Settlement
14 Amount on that basis. Class Counsel shall be solely and legally responsible for paying any and all
15 applicable taxes on their Class Attorney Fees and Expenses and shall indemnify, defend, and hold
16 Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of any
17 payments received by Class Counsel pursuant to this Agreement.

18 The Class Attorney Fees and Expenses approved by the Court shall reflect: **(a)** all work
19 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
20 represent the Settlement Class through the date of this Settlement Agreement; **(b)** all work to be
21 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;
22 **(c)** all work to be performed and costs and expenses, if any, incurred in connection with administering
23 the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and **(d)** may
24 be based on the "catalyst theory" and/or the "common fund doctrine."

25 **6. SETTLEMENT ADMINISTRATION**

26 **6.1. ADMINISTRATION COSTS AND EXPENSES**

27 All costs and expenses due to the Settlement Administrator in connection with its administration
28 of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class

Members, processing Opt Out requests and objections, distributing the portion of the LWDA PAGA Payment, distributing the portion of the PAGA Payment payable to the PAGA Workers, and calculating, administering and distributing Individual Settlement Amounts to the Class Participants and related tax forms, shall be paid from the Gross Settlement Amount, and is not expected to exceed \$6,500.00. In the event that the Court awards less than the full amount requested for Administration Expenses, the unawarded amounts shall remain in the Net Settlement Amount and shall be distributed to the Class Participants.

7. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS

7.1. THE SETTLEMENT ADMINISTRATOR

The Settlement Administrator will be responsible for: mailing the Class Notice (**Exhibit 1**) to Class Members; posting notice of entry of final order and judgment certifying the Class Settlement and approving this Settlement Agreement; handling inquiries from Class Members concerning the Class Notice; determining Individual Settlement Amounts; determining Individual PAGA Payments to PAGA Workers; maintaining the settlement funds in an appropriate interest-bearing account; preparing, administering, and distributing Individual Settlement Amounts to Class Participants; preparing, administering, and distributing Individual PAGA Payments to PAGA Workers; distributing the portion of the LWDA PAGA Payment; issuing a final report and performing such other duties as the Parties may direct. Additionally, the Settlement Administrator will handle all tax document preparation and reporting, including state and federal tax forms, if any.

On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and Defense Counsel with summary information updating them as to the number of validated and timely objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel with proof of mailing of the Class Notice, without listing individual Class Member names which the Settlement Administrator will file with the Court at the time Class Counsel files its motion in support of the Court's Final Approval and Fairness Hearing.

1 No later than thirty (30) days prior to the Final Approval and Fairness Hearing, the Settlement
2 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
3 information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class
4 Participant, without any identifying personal information; **(b)** the number of Class Participants to
5 receive such payments, and **(c)** the final number of Opt-Outs and objections.

6 Prior to the calculation and distribution of the Individual Settlement Amounts, the Settlement
7 Administrator shall calculate the total Administrative Expenses through the conclusion of their services
8 and such actual amount will be deducted from the Gross Settlement Amount prior to the final
9 calculation of the Individual Settlement Amounts.

10 **7.2. NOTICE TO CLASS MEMBERS**

11 Notice shall be provided to Class Members in the following manner: Within fourteen (14) days
12 after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the
13 Class Member Data. The Class Member Data shall be marked “Confidential – Settlement
14 Administrator’s Eyes Only” and shall be used solely for the administration of this Settlement and for
15 no other purpose, and shall not be shared with any persons or entity not employed by the Settlement
16 Administrator and working on the administration of this Settlement Agreement. Because sensitive
17 personal information is included in the Class Member Data, the Settlement Administrator shall
18 maintain the Class Member Data securely and in confidence. Access to such Class Member Data shall
19 be limited to employees of the Settlement Administrator with a need to use the Class Member Data for
20 administration of the settlement. In the event that the Settlement Agreement is not finally approved by
21 the Court, or if it is in any way altered or disapproved on appeal, the Settlement Administrator shall
22 not thereafter use the Class Member Data, and shall destroy any and all copies or versions of it
23 (including any in electronic form).

24 Within twenty-eight (28) days following the Preliminary Approval Date, the Settlement
25 Administrator shall determine the number of workweeks worked by each Class Member based on the
26 Class Member Data, and determine the number of pay periods worked by each PAGA Worker based
27 on the Class Member Data, populate the data for each Class Member accordingly, and send each Class
28 Member the Class Notice via first-class, United States mail. The Class Notice shall also contain an

1 easily-understood statement alerting the Class Members that, unless they elect to Opt Out of the Class
2 Settlement, the Class Member is releasing and waiving all Released Claims against the Released Parties
3 and that Plaintiffs, as representatives of the LWDA and on behalf of the State of California, are
4 releasing the Released Parties for claims for civil penalties under PAGA for the Released Claims within
5 the PAGA Period.

6 The Class Notice will inform Class Members of their estimated Individual Settlement Amount
7 and the number of workweeks they worked during the Class Period and, if they are a PAGA Worker,
8 the estimated amount of their Individual PAGA Payment.

9 **7.3. DISPUTES REGARDING CLASS MEMBER WORKWEEKS**

10 Class Member workweeks during the Class Period and the corresponding Individual Settlement
11 Amount, and PAGA Worker pay periods during the PAGA Period, shall be calculated using the Class
12 Member Data, which presumptively shall be deemed to be full, complete, and accurate for purposes of
13 this Settlement Agreement. To overcome that presumption, any Class Member objecting to the
14 accuracy of the number of workweeks or pay periods must submit documentary evidence, such as pay
15 records or other written records, to the Settlement Administrator. Any such dispute must be mailed or
16 faxed to the Settlement Administrator by the Class Member, postmarked or fax-stamped on or before
17 the Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes
18 Defense Counsel, shall inform Class Counsel of the dispute, and shall immediately attempt to resolve
19 all such disputes directly with relevant Class Members with the assistance of Defendant, Defense
20 Counsel, and Class Counsel. If the dispute cannot be resolved, it shall be submitted to the Settlement
21 Administrator for its final, non-appealable decision. The Settlement Administrator shall use its best
22 efforts to resolve all such disputes prior to the Effective Date. If, however, a dispute arises or is not
23 resolved until after the Gross Settlement Amount has been distributed, the initial calculation shall stand
24 (as Defendant shall be under no obligation to pay any amounts in excess of the Gross Settlement
25 Amount under this Settlement Agreement).

26 **7.4. OPT OUT PROCEDURE**

27 Class Members who do not timely Opt Out of the Class Settlement will be deemed to participate
28 in the Class Settlement and shall become Class Participants. Class Participants do not have to submit a

1 claim form or take any other action to receive an Individual Settlement Amount under this Agreement.
2 To Opt Out of the Class Settlement, the Class Member must mail a written and signed request to Opt
3 Out request by the Response Deadline. An Opt Out request is a letter from the Class Member that
4 communicates the Class Member's election to be excluded from the Settlement and includes the Class
5 Member's name, address, and email address and telephone number. To be valid, the Opt Our request
6 must be timely postmarked by the Response Deadline.

7 Any Opt Out request that is not postmarked by the Response Deadline will be invalid. In the
8 event that, prior to the Response Deadline, any Class Notice mailed to a Class Member is returned as
9 having been undelivered by the United States Postal Service, the Settlement Administrator shall
10 perform a skip trace search and seek an address correction for such Class Members, and a second Class
11 Notice will be sent to any new or different address obtained. Such Class Members shall have an
12 additional fourteen (14) days from the date of the mailing of the second Class Notice in which to Opt
13 Out if the Response Deadline would have otherwise passed prior to fourteen (14) days from the date
14 of the mailing of the second Class Notice.

15 It will be presumed that, if an envelope containing the Class Notice has not been returned within
16 thirty (30) days of the mailing, the Class Member received the Class Notice. At least twenty-one (21)
17 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
18 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
19 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
20 specify the number of Class Members to whom the Class Notice was sent and the number of Class
21 Members to whom the Class Notice was not delivered, as well as information relating to the number
22 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

23 The Settlement Administrator shall accept any Opt Out request as valid if the Settlement
24 Administrator can reasonably ascertain the identity of the person as a Class Member and the Class
25 Member's desire to be excluded. The Settlement Administrator's determination shall be final and not
26 appealable or otherwise susceptible to challenge. If the Settlement Administrator has reason to question
27 the authenticity of a Request for Exclusion, the Settlement Administrator may demand additional proof
28 of the Class Member's identity. The Settlement Administrator's determination of authenticity shall be

1 final and not appealable or otherwise susceptible to challenge. If a Class Member submits both a dispute
2 and an Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify as if
3 the Opt Out request were deficient. If the Class Member fails to cure the deficiency, the Opt Out request
4 shall be disregarded and the claim will be paid, and the Class Member will become bound by the
5 judgment.

6 Class Participants will be bound by the Release of Class Claims set forth in this Settlement
7 Agreement.

8 A request to Opt Out of the Class Settlement shall *not* serve to exclude the Class Member from
9 participation in the PAGA Settlement. Opt-Outs who are PAGA Workers shall still be entitled to their
10 share of the PAGA Payment and will be mailed an Individual PAGA Payment regardless of whether
11 they Opt Out. Class Members who are also PAGA Workers shall have no right or ability to opt out of
12 the PAGA Settlement.

13 **7.5. OBJECTION PROCEDURE**

14 The Class Notice shall inform the Class Members of their right to object to the Class Settlement
15 if they do not Opt Out. Any Class Participants who wish to object to the Class Settlement may submit
16 a written objection to the Settlement Administrator no later than the Response Deadline. Only Class
17 Participants may object to the Settlement. The objection should include the case name and number and
18 must set forth, in clear and concise terms, a statement of the reasons why the objector believes that the
19 Court should find that the proposed Class Settlement is not in the best interest of the Settlement Class
20 and the reasons why the Class Settlement should not be approved, including the legal and factual
21 arguments supporting the objection. If an objector also wishes to appear at the Final Approval and
22 Fairness Hearing, in person or through an attorney, they may do so. The Settlement Administrator will
23 promptly serve copies of any objection or notice of intention to appear on Class Counsel and Defense
24 Counsel. Class Participants wishing to make an objection may appear at the Final Approval and
25 Fairness Hearing, either in person or through a lawyer retained at their own expense.

26 **7.6. NO SOLICITATION OF OPT OUTS OR OBJECTIONS**

27 The Parties agree to use their best efforts to carry out the terms of this Settlement Agreement.
28 At no time shall any of the Parties or their counsel seek to directly or indirectly solicit or otherwise

encourage the Class Members to object to the Settlement or to Opt Out from the Class Settlement, or appeal from the Court's final judgment.

7.7. NOTICE OF FINAL JUDGMENT

Within seven (7) days after the Court has held a Final and Fairness Approval Hearing and entered a final order certifying the Class for settlement purposes only and approving the Class Settlement, the Settlement Administrator will give notice of judgment to Class Members pursuant to rule 3.771(b) of the California Rules of Court, by posting a copy of said order and final judgment on its website at a web address to be included in the Class Notice.

8. CLASS SETTLEMENT FUNDING AND DISTRIBUTION

8.1. PAYMENT BY DEFENDANT AND ESCALATOR PROVISION

Defendant shall deposit the Gross Settlement Amount in a lump sum payment plus the employer-side payroll taxes to the Settlement Administrator within fourteen (14) days of the Effective Date. In no event shall Defendant be obligated to pay or deposit with the Settlement Administrator more than \$355,000.00 plus the Employer's Taxes, except where the Escalator Provision is triggered. However, if the Settlement Class's workweeks as of the mediation date (April 22, 2022) exceeds the estimated 7,500 workweeks by more than 10%, then the Gross Settlement Amount shall be increased in proportion to the workweeks in excess of 10% (i.e., if the workweeks exceed 11% of this estimate (i.e., more than 8,250 workweeks), the Gross Settlement Amount shall be increased by 1%).

8.2. ALLOCATION OF THE GROSS SETTLEMENT AMOUNT

The claims of all Class Members are settled for the Gross Settlement Amount of \$355,000.00, which will be allocated as follows:

1. The Administrative Expenses, estimated not to exceed \$6,500.00;
2. Class Counsel's attorney fees not to exceed \$118,333.33;
3. Class Counsel's litigation costs and expenses not to exceed \$15,000.00;
4. The Incentive Awards, not to exceed \$20,000.00; and
5. PAGA Payment to LWDA and PAGA Workers in the amount of \$50,000.00.

For purposes of calculating the estimated Individual Settlement Amounts, the Settlement Administrator shall calculate the estimated Net Settlement Amount based on the estimated values

1 provided above prior to sending Notice to the Class Members. Prior to final distribution, the Settlement
2 Administrator shall recalculate the final Net Settlement Amount based on the actual values of the
3 amounts in each category.

4 **8.3. TIMING OF DISTRIBUTION OF THE GROSS SETTLEMENT AMOUNT**

5 The Settlement Administrator shall distribute the Court-approved payments from the Gross
6 Settlement Amount to the Class Participants, PAGA Workers, the LWDA, Class Counsel, and the
7 Settlement Administrator within 14 days of the funding the Gross Settlement Amount by Defendant.
8 Payments to the Class Participants and PAGA Workers will be made by first-class United States mail
9 at their last known address.

10 **8.4. TIME FOR PAYMENT OF TAXES AND REQUIRED WITHHOLDING AND** 11 **INDIVIDUAL SETTLEMENT AMOUNTS**

12 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
13 Required Withholding associated with each Class Participant's Individual Settlement Amount . If the
14 Settlement Administrator is not able to do so within the time period set forth above, it shall so inform
15 Class Counsel and Defense Counsel and provide an approximate date by which the Employee's Taxes
16 and Required Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under
17 no circumstances shall the Settlement Administrator distribute checks to Class Participants until all
18 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
19 remaining monetary obligations have been calculated and accounted for.

20 Within two hundred ten (210) days of mailing the Individual Settlement Amounts to Class
21 Participants, the Settlement Administrator shall file with the Court and provide to Class Counsel a
22 declaration of payment. In the event that any Class Participant is deceased, payment shall be made
23 payable to the estate of that Class Member and delivered to the executor or administrator of that estate,
24 unless the Settlement Administrator has received an affidavit or declaration pursuant to California
25 Probate Code section 13101, in which case payment shall be made to the affiant(s) or declarant(s).

26 **8.5. NON-CASHED SETTLEMENT CHECKS**

27 Checks paid to PAGA Workers and Class Participants shall remain valid and negotiable for 180
28 days from the date of their issuance. After one-hundred eighty (180) calendar days from the date of

1 mailing, the checks shall become null and void, and any monies remaining in the distribution account
2 shall be distributed to the LWDA which is consistent with California Civil Procedure Code § 384. The
3 Parties agree that this disposition results in no “unpaid residue” under California Civil Procedure Code
4 § 384, as the entire Net Settlement Amount will be paid out to Class Participants, whether or not they
5 all cash their Individual Settlement Amount checks. Therefore, Defendant will not be required to pay
6 any interest on said amount.

7 **9. NULLIFICATION OF THIS SETTLEMENT AGREEMENT**

8 **9.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT**

9 The Class Settlement and conditional class certification shall be considered null and void, and
10 neither the Class Settlement, conditional class certification, nor any of the related negotiations or
11 proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in the
12 same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with
13 the Court, if any of the following occur: **(a)** the Court should for any reason fail to approve this
14 Settlement Agreement in the form agreed to by the Parties; **(b)** the Court should for any reason fail to
15 enter a judgment with prejudice of the Action, or **(c)** the approval of the Class Settlement and judgment
16 is reversed, modified, or declared or rendered void. Notwithstanding the foregoing, the Parties may
17 attempt in good faith to cure any perceived defects in this Settlement Agreement to facilitate approval.

18 **9.2. PARTIES’ RIGHTS TO VOID CLASS SETTLEMENT**

19 If more than 5% of the Settlement Class submit timely Opt Out requests, Defendant may
20 terminate this Settlement Agreement. Defendant will be responsible for all settlement administration
21 costs incurred to the date of termination.

22 **9.3. INVALIDATION**

23 Invalidation of any material portion of this Settlement Agreement shall invalidate the Class
24 Settlement in its entirety, unless the Parties subsequently agree in writing that the remaining provisions
25 of the Class Settlement are to remain in full force and effect.

26 **9.4. STAY ON APPEAL**

27 In the event of a timely appeal from the approval of the Class Settlement and judgment, the
28 judgment shall be stayed, and Defendant shall not be obligated to fund the Gross Settlement Amount

1 or take any other actions required by this Settlement Agreement until all appeal rights have been
2 exhausted by operation of law.

3 **10. MOTIONS FOR COURT APPROVAL**

4 **10.1. PRELIMINARY APPROVAL**

5 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
6 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
7 Settlement. Each party shall cooperate to present the Class Settlement to the Court for preliminary
8 approval in a timely fashion.

9 **10.2. FINAL APPROVAL**

10 The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval
11 and Fairness Hearing, Plaintiffs shall move the Court for the entry of the final order certifying the
12 Settlement Class for settlement purposes only and approving the Class Settlement as being fair,
13 reasonable, and adequate to the Class Participants within the meaning of California Rules of Court,
14 Rule 3.769, subdivisions (c), (d) and (e), approving the PAGA Settlement, and for the entry of a final
15 judgment of the Action consistent with the terms of the Class Settlement and rule 3.769, subdivision
16 (h), of the California Rules of Court. Class Counsel and Defense Counsel shall submit to the Court
17 such pleadings and/or evidence as may be required for the Court's determination.

18 **11. RELEASES AND WAIVERS**

19 **11.1. RELEASE OF CLAIMS BY THE CLASS PARTICIPANTS**

20 Upon the Effective Date, the Releasing Parties shall be deemed to each release the Released
21 Parties, and each of them, of and from any and all Released Claims arising during the Class Period. It
22 is the desire of the Parties and the Releasing Parties to fully, finally, and forever settle, compromise,
23 and discharge the Released Claims. Each of the Releasing Parties, including each Class Participant,
24 will be bound by the release of Released Claims as a result of the Class Settlement and to the terms of
25 the final judgment and the satisfaction of such judgment.

26 Class Participants will be deemed to have acknowledged and agreed that their claims for wages
27 and/or penalties in the Action are disputed, and that their Individual Settlement Amount constitutes
28 payment of all sums allegedly due to them. Class Participants will be deemed to have acknowledged

1 and agreed that California Labor Code section 206.5 is not applicable to the Individual Settlement
2 Amount. That section provides in pertinent part as follows:

3 “An employer shall not require the execution of a release of a claim or right on account
4 of wages due, or to become due, or made as an advance on wages to be earned, unless
5 payment of those wages has been made.”
6

7 **11.2. RELEASE OF PAGA CLAIMS**

8 As of the date of the Effective Date, Plaintiffs, as representatives of the State of California and
9 on behalf of the LWDA, fully and finally release the Released Parties from claims for civil penalties
10 under PAGA for the PAGA Workers for the Released Claims within the PAGA Period.

11 **11.3. RELEASE OF CLAIMS BY PLAINTIFFS**

12 As of the date of Effective Date, Plaintiffs fully and finally release the Released Parties from
13 any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance,
14 regulation, common law, or other source of law, including but not limited to the Released Claims as
15 defined above and individual PAGA claims (“Plaintiffs’ Released Claims”). Plaintiffs’ Released
16 Claims include all claims, whether known or unknown. Even if Plaintiffs discover facts in addition to
17 or different from those that Plaintiffs now know or believe to be true with respect to the subject matter
18 of Plaintiffs’ Released Claims, those claims will remain released and forever barred. Thus, Plaintiffs
19 expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California
20 Civil Code, which reads:

21 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
22 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST
23 IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND
24 THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED
25 HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY
26

27 Notwithstanding the foregoing, Plaintiffs do not waive or release any claim which cannot be
28 waived or released by private agreement. Further, nothing in this Agreement shall prevent Plaintiffs

1 from filing a charge or complaint with, or from participating in, an investigation or proceeding
 2 conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged
 3 with the enforcement of any employment or other applicable laws. Plaintiffs, however, understand that
 4 by signing this Agreement, they waive the right to recover any damages or to receive other relief in
 5 any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral agency
 6 on their behalf to the fullest extent permitted by law, but expressly excluding any monetary award or
 7 other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other
 8 awards or relief that may not lawfully be waived.

9 **11.4. CIRCULAR 230 DISCLAIMER**

10 The Parties make no representation as to the tax treatment or legal effect of the payments called
 11 for hereunder, and the Parties, Class members, and PAGA Workers are not relying on any statement,
 12 representation, or calculation by any of the Parties or by the Settlement Administrator in this regard.
 13 Plaintiffs, Class members, and PAGA Workers understand and agree that except for the employer's
 14 portion of any payroll taxes, Plaintiffs, Class Members, and PAGA Workers will be solely responsible
 15 for the payment of any taxes and penalties assessed on the payments described herein and will hold
 16 Plaintiffs, Class Counsel, Defendant, Defense Counsel and the Settlement Administrator free and
 17 harmless from and against any claims resulting from treatment of such payments as non-taxable
 18 damages. Each party to this Settlement Agreement (for purposes of this section, the "Acknowledging
 19 Party"; and each party to this Agreement other than the Acknowledging Party, an "Other Party")
 20 acknowledges and agrees that **(1)** no provision of this Settlement Agreement, and no written
 21 communication or disclosure between or among the parties or their attorneys and other advisers, is or
 22 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
 23 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
 24 C.F.R. Part 10); **(2)** the Acknowledging Party **(a)** has relied exclusively upon her or its own
 25 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
 26 Agreement, **(b)** has not entered into this Settlement Agreement based upon the recommendation of any
 27 other party or any attorney or advisor to any other party, and **(c)** is not entitled to rely upon any
 28 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that

1 may be imposed on the Acknowledging Party; and **(3)** no attorney or adviser to any other party has
2 imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
3 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
4 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
5 Settlement Agreement.

6 **12. DUTIES OF THE PARTIES**

7 **12.1. MUTUAL FULL COOPERATION**

8 The Parties agree to cooperate fully with one another to accomplish and implement the terms
9 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
10 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
11 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
12 by this Settlement Agreement and any other efforts that may become necessary by court order or
13 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
14 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendant and
15 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
16 this Settlement Agreement.

17 **12.2. DUTY TO SUPPORT AND DEFEND THE CLASS SETTLEMENT**

18 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
19 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
20 legal challenge, whether by appeal or collateral attack.

21 **12.3. DUTIES PRIOR TO COURT APPROVAL**

22 Class Counsel shall promptly submit this Settlement Agreement to the Court for preliminary
23 approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly
24 upon execution of this Settlement Agreement, Class Counsel shall apply to the Court for the entry of a
25 preliminary order scheduling a hearing on the question of whether the proposed Class Settlement
26 should be approved as fair, reasonable, and adequate as to the Class Members, approving as to form
27 and content the proposed Class Notice attached hereto as **Exhibit 1**, and directing the mailing of the
28 Class Notice to Class Members. While Defendant can reserve its right to object to facts or assertions

1 made in the moving papers, Defense Counsel shall file a notice of non-opposition to the granting of the
2 motion for preliminary approval or join in the motion.

3 **13. MISCELLANEOUS PROVISIONS**

4 **13.1. VOIDING THIS SETTLEMENT AGREEMENT**

5 Pending Court approval and other than as provided herein, if any of the conditions set forth in
6 this Settlement Agreement are not met and satisfied, this Settlement Agreement may, at the option of
7 either Plaintiffs or Defendant, be ineffective, void, and of no further force and effect, and may not be
8 used or be admissible in any subsequent proceeding, either in this Court or in any other court or forum.
9 If either Party decides to void the Settlement Agreement, then the Settlement Agreement and
10 conditional class certification shall be considered void, and neither the Settlement Agreement,
11 conditional class certification, nor any of the related negotiations or proceedings, shall be of any force
12 or effect, and the Parties shall stand in the same position, without prejudice, as if this Settlement
13 Agreement had been neither entered into nor filed with the Court. Should any Party choose to void the
14 Class Settlement under this subsection, such Party shall be responsible for all Settlement Administrator
15 fees and costs actually incurred.

16 **13.2. DIFFERENT FACTS**

17 The Parties acknowledge that, except for matters expressly represented herein, the facts in
18 relation to the dispute and all claims released by the terms of this Settlement Agreement may turn out
19 to be different from the facts now known by each party and/or its counsel, or believed by such Party or
20 counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or
21 presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective
22 and binding despite such difference.

23 **13.3. NO PRIOR ASSIGNMENTS**

24 The Parties represent, covenant, and warrant that they have not directly or indirectly assigned,
25 transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any
26 portion of any liability, claim, demand, action, cause of action, or right herein released and discharged
27 except as set forth herein.
28

13.4. NON-ADMISSION

Nothing in this Settlement Agreement shall be construed as or deemed to be an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other Party, or any other person, and the Parties specifically disclaim any liability, culpability, negligence, or wrongdoing toward each other or any other person. Each of the Parties has entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. Nothing herein shall constitute any admission by Defendant of wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any admission by Defendant regarding the merits of the Claims in this Action, including but not limited to claims for unpaid wages or violations under California or federal law. Nothing herein shall constitute an admission by Defendant that the Action was properly brought as a class or representative action other than for settlement purposes. To the contrary, Defendant has denied and continues to deny each and every material factual allegation and all Claims. To this end, the settlement of the Action, the negotiation and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement Agreement or the settlement of the Action are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations in the Complaint in the Action; and are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission on the part of Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

13.5. NON-EVIDENTIARY USE

Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation or drafting of it, shall be offered or used as evidence by Plaintiffs, any Class Member (including any individual who requested to be excluded from the Settlement Class), Defendant, or its, her, his, or their respective counsel, in the Action, except as is reasonably necessary to effectuate the Settlement Agreement's purpose and terms. This Settlement Agreement may, however, be used by Defendant and the Released Parties to prove or defend against any claim released herein by any Class Member in any judicial, quasi-judicial, administrative, or governmental proceeding.

13.6. MEDIA OR PRESS

Neither Plaintiffs nor Plaintiffs' counsel shall issue any press release or announcement of any kind related in any way to the settlement. Plaintiffs and Plaintiffs' counsel agree that, prior to preliminary approval of the settlement, they will keep the terms of the settlement confidential except for purposes of communicating with Plaintiffs only. Plaintiffs understand that the settlement is confidential and shall keep the settlement confidential. From and after preliminary approval of the settlement, Plaintiffs and Plaintiffs' counsel may: (1) as required by law; (2) as required under the terms of the settlement; or (3) as required under counsel's duties and responsibilities as class counsel, comment regarding the specific terms of the settlement. In all other cases, Plaintiffs and Plaintiffs' counsel agree to limit their statements regarding the terms of the settlement, whether oral, written or electronic (including the world wide web), to say the Action has been resolved and that Plaintiffs and Plaintiffs' counsel are satisfied with the settlement terms. Nothing in this Paragraph is intended to interfere with Plaintiffs' counsel's duties and obligations to faithfully discharge their duties as class counsel, including but not limited to, communicating with Settlement Class Members regarding the settlement, and nothing shall prohibit Plaintiffs' counsel from referring to the settlement in adequacy of counsel declarations or related court filings.

13.7. NON-RETALIATION

Defendant understands and acknowledges that it has a legal obligation to not retaliate against any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the Class Settlement. Defendant will refer any inquiries regarding this Class Settlement to the Settlement Administrator or Class Counsel and will not discourage Class Members who are employees, directly or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of the Parties, or their respective attorneys or agents, shall solicit or encourage any Class Members, directly or indirectly, to Opt Out of the Class Settlement.

13.8. CONSTRUCTION

The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement Agreement is not to be construed in favor of or against any party by reason of the extent to which any

1 party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
2 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
3 next business day.

4 **13.9. GOVERNING LAW**

5 This Settlement Agreement is intended to and shall be governed by the laws of the State of
6 California, without regard to conflict of law principles, in all respects, including execution,
7 interpretation, performance, and enforcement.

8 **13.10. NOTICES**

9 Except for Class Member notices required to be made by the Settlement Administrator, all
10 notices or other communications required or permitted under this Settlement Agreement shall be in
11 writing and shall be sufficiently given if delivered in person Class Counsel and Defense Counsel by
12 U.S. certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address
13 of the party appearing in this Settlement Agreement.

14 **13.11. CAPTIONS AND INTERPRETATIONS**

15 Section titles or captions contained herein are inserted as a matter of convenience and for
16 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
17 or any provision thereof.

18 **13.12. MODIFICATION**

19 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
20 by the Parties or the Parties' counsel on their behalf. If preliminary or final approval of this Settlement
21 Agreement has been granted by the Court, then any such amendments or modifications to this
22 Settlement Agreement shall be approved by the Court. This Settlement Agreement may not be
23 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

24 **13.13. INTEGRATION CLAUSE**

25 This Settlement Agreement contains the entire agreement between the Parties relating to the
26 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
27 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
28

1 and whether by a party or such party's legal counsel, are hereby superseded. No rights under this
2 Settlement Agreement may be waived except in writing as provided above.

3 **13.14. SUCCESSORS AND ASSIGNS**

4 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
5 Members (excluding only persons who timely Opt Out) and their respective present and former heirs,
6 trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees,
7 insurers, attorneys, accountants, auditors, advisors, consultants, pension plans, welfare benefit plans,
8 fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors,
9 successors, and assigns.

10 **13.15. CORPORATE SIGNATORIES**

11 Any person executing this Settlement Agreement or any such related document on behalf of a
12 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
13 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
14 this Settlement Agreement or any such related document.

15 **13.16. EXECUTION IN COUNTERPARTS**

16 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
17 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
18 have the same force and effect as if all Settling Parties had signed the same instrument.

19 **13.17. ATTORNEY FEES, COSTS, AND EXPENSES**

20 Except as otherwise specifically provided for herein, each party shall bear her or its own
21 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
22 and shall not seek reimbursement thereof from any other party to this Settlement Agreement.

23 **13.18. ACTION TO ENFORCE AGREEMENT**

24 In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be
25 entitled to recover her or its attorney fees and costs.

26 **13.19. JURISDICTION**

27 The Court shall retain jurisdiction with respect to the interpretation, implementation, and
28 enforcement of the terms of this Settlement Agreement and all orders and judgments entered in

connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement embodied in this Settlement Agreement and all orders and judgments entered in connection therewith.

14. **EXECUTION**

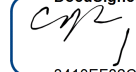
The Parties and their counsel have executed this Settlement Agreement on the date below their signatures or the signature of their representatives. The date of this Settlement Agreement shall be the date of the latest signature.

APPROVAL AND EXECUTION BY PARTIES

CLASS REPRESENTATIVES:

Dated: 1/10/2023 _____

DocuSigned by:



3410EF82CCAB481...

Cindy Flores Pina
Plaintiff and Class Representative

Dated: 1/9/2023 _____

DocuSigned by:



58CA445D65E2400...

Lisa Howze
Plaintiff and Class Representative

DEFENDANT:

Dated: _____

Hallway Healthcare, Inc.

By: _____

Title: _____

APPROVED AS TO FORM BY COUNSEL

CLASS COUNSEL:

1 connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court
2 for purposes of interpreting, implementing and enforcing the settlement embodied in this Settlement
3 Agreement and all orders and judgments entered in connection therewith.

4 **14. EXECUTION**

5 The Parties and their counsel have executed this Settlement Agreement on the date below their
6 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
7 date of the latest signature.

8 **APPROVAL AND EXECUTION BY PARTIES**

9 **CLASS REPRESENTATIVES:**

10
11 Dated: _____

Cindy Flores Pina
Plaintiff and Class Representative

12
13 Dated: _____

Lisa Howze
Plaintiff and Class Representative

14
15
16 **DEFENDANT:**

17
18 Dated: _____
Terri Hall

Hallway Healthcare, Inc.

DocuSigned by:

3FD59D5DB8B546D...

By: _____
Terri Hall

Title: _____
CEO

21
22
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24 **APPROVED AS TO FORM BY COUNSEL**

25 **CLASS COUNSEL:**

1 Dated: 1/9/2023
2
3
4

Melmed Law Group P.C.

DocuSigned by:



E6A102B04CC64B0

Kyle D. Smith
Attorneys for Plaintiffs

5 **DEFENDANT'S COUNSEL:**
6

7 Dated: _____
8
9

Morgan, Lewis & Bockius LLP

Melinda S. Riechert
Sarah Zenewicz
Kayla K. Cox
Attorneys for Defendant

1 Dated: _____

Melmed Law Group P.C.

2
3 _____
4 Kyle D. Smith
5 Attorneys for Plaintiffs

6 **DEFENDANT'S COUNSEL:**

7 Dated: January 9, 2023

Morgan, Lewis & Bockius LLP

8 
9 _____
10 Melinda S. Riechert
11 Sarah Zenewicz
12 Kayla K. Cox
13 Attorneys for Defendant
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EXHIBIT 1

*(Notice of Proposed Settlement of Class
Action)*

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION**ALAMEDA COUNTY SUPERIOR COURT**

To: All persons who performed work for Hallway Healthcare, Inc.'s clients and were classified as an independent contractor during the period from September 16, 2017, through the earlier of August 20, 2022 (the "Settlement Class").

You are receiving this Notice because a proposed class and representative Private Attorney General Act ("PAGA") settlement has been reached in *Pina et al. v. Hallway Healthcare, Inc.*, Alameda Superior Court Case No. RG21114140 (the "Lawsuit"). You may be entitled to benefits as a Settlement Class Member or as a PAGA Worker (defined below) if the Court approves the Settlement described in this Notice. Your options with respect to the Settlement are explained in further detail below.

THIS NOTICE AFFECTS YOUR LEGAL RIGHTS.
PLEASE READ IT CAREFULLY.

This is not a solicitation from a lawyer. A Court has authorized this Notice.

YOUR LEGAL RIGHTS AND OPTIONS ARE:	
Do Nothing	If you want to participate and receive your share of the money from the class and PAGA settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will release certain claims as a Settlement Class Member.
Object	If you want to object to the class settlement, you must submit in writing the reason(s) why you think the class settlement should not be approved.
Exclude Yourself	If you want to exclude yourself (or "opt-out") from the class settlement, you must submit a written request for exclusion. If you do, you will not receive any share of the money from the class settlement and you will not release your own claims. If you are a PAGA Worker, then even if you exclude yourself from the class action, you will still receive a portion of the PAGA settlement.

YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE
THEM ARE EXPLAINED IN THIS NOTICE

WHAT IS THIS NOTICE ABOUT?

A proposed class and PAGA settlement (the “Settlement”) has been reached between Plaintiffs Cindy Flores Pina and Lisa Howze (“Plaintiffs”) and Defendant Hallway Healthcare, Inc. (“Defendant”) in a pending lawsuit in the Alameda County Superior Court, brought on behalf of all persons who performed work for Hallway Healthcare, Inc.’s clients and was classified as an independent contractor during the period from September 16, 2017, through August 20, 2022 (the “Settlement Class”).

On **INSERT DATE**, the Court preliminarily approved the proposed Settlement and certified the Settlement Class for purposes of settlement only. You have received this Notice because Defendant’s records indicate that you are a member of the Settlement Class. This Notice is designed to inform you of how you can participate in the Settlement, request to be excluded from the class settlement portion of the Settlement (the “Class Settlement”), or object to the Class Settlement. **Unless you submit a request to be excluded from the Class Settlement, the Class Settlement, if finally approved by the Court, will be binding on you. However, if you are a PAGA Worker you cannot opt out of the PAGA portion of the settlement and will be bound by it if the Settlement is approved.**

WHAT IS THIS LAWSUIT ABOUT?

On September 16, 2021, Plaintiff Pina initiated the Lawsuit by filing her Class and Representative Action Complaint in Alameda Superior Court against Defendant. On behalf of an alleged class and putative aggrieved employee group of all current and former independent contractors of Defendant in California, Plaintiffs alleged claims for (1) Penalties Pursuant to the Labor Code Private Attorneys General Act of 2004 for Willful Misclassification in Violation of Labor Code sections 226.8 and 2775; (2) Failure to Pay All Minimum Wages; (3) Failure to Pay All Overtime Wages; (4) Failure to Provide Rest Periods and Pay Missed Rest Period Premiums; (5) Failure to Provide Meal Periods and Pay Missed Meal Period Premiums; (6) Failure to Maintain Accurate Employment Records; (7) Failure to Pay Wages Timely During Employment; (8) Failure to Pay All Wages Earned and Unpaid at Separation; (9) Failure to Indemnify All Necessary Business Expenditures; (10) Failure to Furnish Accurate Itemized Wage Statements; (11) Violations of California’s Unfair Competition Law; and (12) Penalties Pursuant to PAGA for Violations of the California Labor Code. The Lawsuit seeks compensatory damages, liquidated damages, penalties, interest, and attorneys’ fees and costs, restitution, and injunctive relief.

On November 12, 2021, Plaintiffs filed their First Amended Class and Representative Action Complaint adding Plaintiff Howze as a named plaintiff. On January 14, 2022, Defendant filed its Answer to the First Amended Complaint, which included a general denial and affirmative defenses.

Defendant denies all allegations in their entirety, vigorously maintains that Defendant paid Settlement Class properly under the law, and asserted numerous affirmative defenses to the allegations in this lawsuit.

The parties have conducted a significant investigation of the facts and law during the prosecution of the Lawsuit, including the exchange of information and documents. The parties have held numerous meetings and informal conferences wherein they exchanged information and theories of

the respective cases. The parties participated in a mediation and subsequent settlement discussions and reached a Settlement. The Settlement resolves all claims in the Lawsuit.

This Settlement represents a compromise and settlement of highly disputed claims. Nothing in this Notice is intended or will be construed as an admission by Defendant that Plaintiffs' claims in the Lawsuit have merit or that Defendant has any liability to Plaintiffs or the Settlement Class on those claims.

The Parties and their counsel have concluded that the Settlement is fair, reasonable and adequate, considering the costs, interruptions, risks and uncertainties to each side of continued litigation and Plaintiffs and their counsel believe the Settlement is in the best interests of Settlement Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

You are included in the Settlement Class if you fall within the following definition:

All persons who performed work for Hallway Healthcare, Inc.'s clients and were classified as an independent contractor during the period from September 16, 2017, through August 20, 2022 (the "Settlement Class").

Not everyone in the Settlement Class is a PAGA Worker entitled to receive a PAGA Payment. You are included in the PAGA Settlement as a PAGA Worker if you fall within the following definition:

All persons who performed work for Hallway Healthcare, Inc.'s clients and were classified as an independent contractor during the period from September 16, 2020, through August 20, 2022 (the "PAGA Workers").

WHO IS CLASS COUNSEL?

Jonathan Melmed, Kyle Smith and Joanne Kim of Melmed Law Group, P.C., 1801 Century Park East, Suite 850, Los Angeles, California 90067 (together, "Class Counsel").

SUMMARY OF THE SETTLEMENT

WHAT ARE THE BENEFITS OF THE SETTLEMENT?

1. Defendants will pay a Gross Settlement Amount of \$355,000.00 to settle the Lawsuit. The Gross Settlement Amount will fund all payments to be made under the Settlement, including payments to the Settlement Class Members, a PAGA Payment in settlement of claims for civil penalties under PAGA, and all court-approved deductions including settlement administration costs, attorney's fees, costs, and the Named Plaintiff Enhancement Payments, as described below.

Following the court-approved deductions from the Gross Settlement Amount, the remaining amount will be the Class Payout Fund, which will be distributed to Settlement Class Members who do not timely request to be excluded from the Settlement. Class Member Payments will be made on a pro-rata basis, based on the number of workweeks each Settlement Class Member worked from September 16, 2017, through August 20, 2022 (“Class Settlement Period”).

2. A Settlement Class Member is not required to submit a claim form in order to be eligible for and to receive a Class Member Payment.
3. Persons in the Settlement Class who submit valid and timely requests for exclusion pursuant to the terms and procedures of the Notice will be excluded from the Settlement and will not become Settlement Class Members. However, no one can exclude themselves from the PAGA portion of the Settlement.
4. **Court-Approved Deductions.** Should the Court approve the Settlement, the following court-approved deductions shall be made from the Gross Settlement Amount:
 - a. **Class Counsel’s Fees Award and Costs Award.** Class Counsel have represented and continue to represent the Settlement Class on a contingency-fee basis. That means that attorneys’ fees are paid only if money is recovered for the Settlement Class. It is common to award attorneys’ fees as a percentage of the settlement amount negotiated by the attorneys for the Settlement Class. As part of the final approval hearing, Class Counsel, will request up to one third of the Gross Settlement Amount for their attorneys’ fees in connection with their work in this case, and reimbursement of their reasonable litigation costs and expenses that were advanced by Class Counsel in connection with the Lawsuit.
 - b. **Named Plaintiff Enhancement Payments.** The named Plaintiffs will seek approval from the Court for payments of \$10,000 each (for a total of \$20,000) in consideration for their service in initiating and pursuing the Lawsuit, and undertaking the risk of liability for attorneys’ fees and expenses in the event they were unsuccessful in the prosecution of the Lawsuit. These payments, if approved by the Court, will be paid in addition to each Plaintiff’s Class Member Payment and PAGA Worker payment, and will be paid out of the Gross Settlement Amount.
 - c. **PAGA Payment.** The parties will seek approval from the Court to designate \$50,000 of the Gross Settlement Amount as penalties recoverable under the California Private Attorneys General Act. 75% of this amount, or \$37,500.00, will be paid to the California Labor and Workforce Development Agency, as required by law. The remaining 25% of this amount, or \$12,500.00, will be distributed to the PAGA Workers who worked during the period between September 16, 2020, through August 20, 2022 (the “PAGA Settlement Period”) on a pro-rata basis.
 - d. **Settlement Administration Costs.** If approved by the Court, the reasonable costs of administering the Settlement, including the Settlement Administrator’s fees and

expenses, which are estimated to be approximately \$6,500.00, will be paid out of the Gross Settlement Amount.

How much is my Settlement Payment?

Your total estimated workweeks is [REDACTED]. Based on that, your anticipated approximate Class Member Payment is [REDACTED]. Your total estimated pay periods is [REDACTED]. Based on that, your anticipated approximate PAGA Payment is [REDACTED]. The exact amount of the Class Member Payment and PAGA Payment could vary, depending upon various factors, including (1) whether any persons in the Settlement Class dispute the number of workweeks credited to them and whether any PAGA Workers dispute the number of pay periods credit to them; and (2) whether any additions or deletions are made to the number of persons in the Settlement Class or in the group of PAGA Workers. 20% of the Class Member Payment will be allocated as W-2 wages; 80% will be allocated as penalties and interest. 100% of the PAGA Payment will be treated as penalties and interest.

You are entitled to dispute the number of workweeks and pay periods during the Class Settlement Period and PAGA Settlement Period reported in this Notice. To submit a valid dispute, you must send a dated and signed letter stating you dispute the number of workweeks and/or pay periods along with any supporting documentation, to the Claims Administrator so that it is **postmarked no later than [REDACTED], 2022 (45 days after this Notice was originally sent to you)**. Any dispute that is postmarked later than [REDACTED], 2022, will be late and invalid and will result in the Settlement Class Member and/or PAGA Worker being bound by the number of workweeks and pay periods reported in this Notice.

WHAT HAPPENS IF THE COURT APPROVES THE SETTLEMENT?

If the Court approves the proposed Settlement, it will enter a judgment as to all Settlement Class Members who do not timely request exclusion from the Settlement. This means that Settlement Class Members (all persons in the Settlement Class who do not exclude themselves) will be barred from bringing their own lawsuits for recovery against Defendants for any and all “Released Claims,” which are defined as:

- Any and all claims that arose during the Class Settlement Period for all claims asserted in, arising from, or related to the allegations set forth in the Lawsuit, including all claims that could have been asserted as part of the Lawsuit based on the facts alleged including all claims arising from any alleged misclassification as an independent contractor and claims for: unpaid wages, failure to pay minimum wages; failure to pay straight time compensation, overtime or double-time compensation (including failure to correctly calculate and pay based on the regular rate of compensation) including for any time worked off-the-clock, which includes any time for Covid-19 testing; that meal or rest periods were not provided, were missed, late, short, interrupted, or that Class Members were not permitted to leave the premises during meal or rest periods, and any claim for any alleged failure to pay premiums for such meal or rest periods, or to pay such premiums at the regular rate of compensation; reimbursement for business expenses or any other claim that Defendant allowed or required Class Members to bear any of the costs associated with the operation of Defendant’s business, including without limitation the cost of Covid tests, use of personal vehicles, personal phones and data, personal equipment, or any other business

expense incurred; failure to timely pay all wages due twice per month, failure to pay all wages due at the time of separation; inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate records; any claim for unfair business practices arising out of or related to any or all of the aforementioned claims; any claim for penalties arising out of or related to any or all of the aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; all claims arising under the California Labor Code (including but not limited to sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2775, 2802, 2804); and all claims arising under the Wage Orders of the California Industrial Welfare Commission, California Business and Professions Code section 17200, et seq., the California Labor Code based on the aforementioned claims.

In addition, if the Court approves the Settlement, then Named Plaintiffs, as representatives of the State of California and on behalf of the LWDA, will fully and finally release the Released Parties from all claims for civil under the PAGA associated with any and all Released Claims that arose during the PAGA Settlement Period for the PAGA Workers.

The release of claims set forth in the Settlement excludes the release of claims not permitted by law.

WHAT HAPPENS IF THE COURT DOES NOT APPROVE THE SETTLEMENT?

If the Court does not approve the proposed Settlement, the Lawsuit will proceed as if no settlement has been attempted, and there can be no assurance that the PAGA Workers and the Settlement Class Members will recover more than is provided for in this Settlement or anything at all.

WHEN IS THE FINAL SETTLEMENT APPROVAL HEARING?

A hearing will be held before the [REDACTED] of the Alameda County Superior Court on **INSERT DATE AND TIME**, in Department 21, Administration Building, 1221 Oak Street, Oakland, CA 94612. The purpose of the hearing is for the Court to determine final approval of the Settlement along with the amount properly payable for (i) the Fees Award and Costs Award, (ii) Named Plaintiff Enhancement Payments, (iii) the Settlement Administration Costs, (iv) Class Member Payments; and (v) the PAGA Payments. **The time and date of this hearing may be changed without further notice. Settlement Class Members are advised to check the Settlement website or the Court's website to confirm that the date and/or time of the hearing has not been changed.**

Will my decision about whether to participate in the Settlement affect my work with Hallway Healthcare?

No. Defendant is prohibited by law from retaliating against anyone for participating in this Settlement.

Should I get my own lawyer in this case?

The Court has approved the Melmed Law Group, P.C. as Class Counsel. Class Counsel represents you and the Settlement Class in the Class Action. You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

WHAT ARE MY OPTIONS REGARDING THE SETTLEMENT?

If you are receiving this Notice, you have the following options:

- **Participate Fully in the Settlement:** To receive monetary payments from the class and PAGA settlement, Settlement Class Members and PAGA Workers are not required to do anything.
- **Request to be Excluded From the Class Settlement:** All persons in the Settlement Class who wish to exclude themselves from the Settlement Class must mail a written and signed request to Opt Out request on or before **INSERT DATE** (the “Response Deadline”). An Opt Out request is a letter that communicates your election to be excluded from the Settlement and includes your name, address, and email address and telephone number. To be valid, the Opt Out request must be timely postmarked by the Response Deadline. The Opt Out request must be returned by mail to the Settlement Administrator at the following address: **INSERT ADDRESS**. **The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted.**

Any person who opts-out of the Settlement Class will not be entitled to any recovery under the Class Settlement and will not be bound by the Class Settlement or have any right to object, appeal or comment thereon. Absent good cause found by the Court, individuals who do not submit a valid and timely request Opt Out request by the Response Deadline shall be Settlement Class member and shall be bound by all terms of the Settlement and any Final Judgment entered in the Lawsuit if the Settlement is approved by the Court. **You cannot opt-out or exclude yourself from the PAGA portion of the Settlement.**

- **Object to the Class Settlement.** If you do not ask to be excluded from the class settlement you can ask the Court to deny approval of the Settlement by filing an objection or requesting to appear at the final approval hearing. **You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement.** If the Court denies approval, no settlement payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

All objections, requests to appear or other documents from Settlement Class Members should be sent to the Settlement Administrator, who then packages the documents for counsel and the court.

All objections, requests to appear or other documents must be submitted no later than the Objection/Exclusion Deadline Date of **INSERT DATE**, 2022. A Settlement Class Member may opt to appear at the Final Approval Hearing *pro se* or through his or her own attorney. Where the Settlement Class Member opts to appear through his or her own attorney, he or she is responsible for hiring and paying that attorney.

The Parties will be permitted to respond in writing to such objections prior to the Final Approval hearing. Absent good cause found by the Court, Settlement Class Members who fail

to file and serve timely written objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

ARE THERE MORE DETAILS AVAILABLE?

This Notice summarizes the proposed Settlement Agreement. For the precise terms of this settlement, consult the “Settlement Agreement,” which is attached to the Declaration of [INSERT] in Support Of Plaintiff’s Motion for Preliminary Approval as Exhibit [REDACTED], which is on file with the Court. The Settlement Agreement, the pleadings and other records regarding the Lawsuit may be examined at any time during regular business hours at the Alameda County Superior Court, located at Administration Building, 1221 Oak Street, Oakland, CA 94612. Such documents are also available online by going to the following website: [insert court website]. Please note, there may be fees for accessing documents online.

For any additional inquiries concerning this case, you may also contact the Settlement Administrator, the [REDACTED], at [INSERT CONTACT INFORMATION].

PLEASE DO NOT TELEPHONE DEFENSE COUNSEL, THE COURT, OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.